

# City of Philadelphia



(Bill No. 050135)

## AN ORDINANCE

Authorizing the Water Commissioner on behalf of the City to enter into an agreement with the owner of a property and their successors of private roadways located within the Independence Court Housing Development, located in properties bounded by Christian Street, Queen Street, Swanson Street and the Southeast Right-of-way Line of Interstate 95, for the grant of a right-of-way to the City for drainage, sewer and water main purposes, 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 owners and their successors of private roadways located within the Independence Court Housing Development, located in properties bounded by Christian Street, Queen Street, Swanson Street and the Southeast Right-of-way Line of Interstate 95, for the grant of a right-of-way to the City for drainage, sewer and water main purposes, 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, **STONE CREEK HOMES, LLC**, the record owner of a certain Property **BOUNDED BY CHRISTIAN STREET, QUEEN STREET, SWANSON STREET AND THE SOUTHEAST RIGHT-OF-WAY LINE OF INTERSTATE 95 (KNOWN AS 9 CHRISTIAN STREET)** in the 2nd Ward, Philadelphia, Pennsylvania, hereinafter called “Grantor”, and THE CITY OF PHILADELPHIA, hereinafter called “City”;

#### WITNESSETH:

WHEREAS, the Independence Court Development, comprised of fifty houses, shall be built on the west side of Swanson Street from Christian Street to Queen Street, westward to the right-of-way line of Interstate 95; and

WHEREAS, the water mains and sewers for the development are to be constructed within the beds of the interior private roadways of the development; 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 sewer a portion of the Grantor must grant unto the City certain rights-of-way for drainage, sewer and water main purposes, within the bed of the interior private roadways of the development, 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 properties at 9 Christian Street, Philadelphia, Pennsylvania 19147, (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 2<sup>nd</sup> WARD OF THE CITY OF PHILADELPHIA, DESCRIBED AS FOLLOWS:

BEGINNING at a point in the northeasterly right-of-way line of Christian Street (60 feet wide), said point being located North 68°58'00" West, a distance of 58.06 feet from the point of intersection of the northeasterly right-of-way line of Christian Street and the westerly right-of-way line of Swanson Street (50 feet wide); Thence, 1) Extending along the northeasterly side of Christian Street, North 68°58'00" West, a distance of 19.00 feet; Thence 2) Leaving said line of Christian Street and extending North 20°53'56" East, a distance of 41.07 feet; Thence 3) North 69°09'09" East, a distance of 181.75 feet; Thence, 4) North 20°50'51" East, a distance of 18 feet; Thence, 5) South 69°09'09" East, a distance of 44.59 feet; Thence, 6) North 20°56'22" East, a distance of 279.02 feet; Thence 7) South 74°43'11" East, a distance of 51.80 feet; Thence, 8) South 02°13'29" West, a distance of 146.43 feet; Thence 9) South 74°51'38" East, a distance of 45.62 feet to a point on the aforementioned westerly right-of-way line of Swanson Street; Thence 10) Extending along said line of Swanson Street South 02°19'48" West, a distance of 26.00 feet; Thence 11) Leaving said line and extending North 73°37'46" West, a distance of 45.81 feet ; Thence 12) South 02°13'29" West, a distance of 154.75 feet; Thence 13) South 20°53'56" West, a distance of 34.06 feet to the first mentioned point and place of Beginning. Containing 0.772 Acres , more or less

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EXEMPTING thereout and therefrom following area,

BEGINNING at an interior point located the two following courses from the point of intersection of the northeasterly right-of-way line of Christian Street (60 feet wide) and the westerly right-of-way line of Swanson Street (50 feet wide); Thence, a) Extending along said line of Swanson Street North  $02^{\circ}19'48''$  East, a distance of 105.80 feet; Thence, b) Leaving said line and extending North  $87^{\circ}40'12''$  West, a distance of 70.25 feet; Thence, from the Point of Beginning, 1) South  $72^{\circ}55'07''$  West, a distance of 19.00 feet; Thence, 2) North  $69^{\circ}09'09''$  West, a distance of 72.97 feet; Thence 3) North  $20^{\circ}56'22''$  East, a distance of 248.42 feet; Thence 4) South  $74^{\circ}43'11''$  East, a distance of 7.58 feet; Thence, 5) South  $02^{\circ}13'29''$  West, a distance of 250.59 feet to the Point of Beginning. Containing 0.282 acres, more or less.

The overall right-of-way area is 0.49 acres, more or less.

The Right-of-way for Drainage, Sewer and Water Main Purposes, described herein, is according to a plan entitled "RIGHT-OF-WAY PLAN", dated June 10, 2004, prepared by Langan Engineering and Environmental Services, Inc., 30 South 17<sup>th</sup> Street, Philadelphia, PA 19103 and signed and sealed by Shaun F. Higgins, Professional Land Surveyor (PA License SU-051088-E).

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

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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:

If to Grantor at: Stone Creek Homes, LLC  
Ruggiero Development Group  
PO Box 448  
Glen Mills, PA

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 assigns 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**

\_\_\_\_\_  
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 April 21, 2005. The Bill was Signed by the Mayor on May 4, 2005.



Patricia Rafferty  
Chief Clerk of the City Council