

City of Philadelphia



(Bill No. 050374)

AN ORDINANCE

Authorizing the Water Commissioner on behalf of the City to enter into agreement with the owners of the properties at 6208 through 6230 Germantown Avenue for the grant of rights-of-way to the City for drainage and sewer 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 agreements, substantially in the form set forth in Exhibit A, with the owners of the properties at 6208 through 6230 Germantown Avenue for the grant of rights-of-way to the City for drainage and sewer purposes, under certain terms and conditions.

Section 2. The City Solicitor shall include in said agreements 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, **SAFEGUARD PA II, LLC**, the record owner of a certain Property at **6208 through 6230 Germantown Avenue** in the 59th Ward, Philadelphia, Pennsylvania, hereinafter called “Grantor”, and THE CITY OF PHILADELPHIA, hereinafter called “City”;

WITNESSETH:

WHEREAS, the properties at 6208 through 6230 Germantown Avenue compromises various lots that are being developed as a self-storage commercial property; and

WHEREAS, in order to develop the lots, it will be necessary to relocate an existing public sewer at the owners’ expense in accordance City standards and in accordance with the Philadelphia Code; and

WHEREAS, in order to accept and maintain the said relocated, a portion of the property owners at 6208 through 6230 Germantown Avenue must grant unto the City a certain right-of-way for drainage and sewer purposes, 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 6208 through 6230 Germantown, Philadelphia, Pennsylvania 19144 (herein after 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 and sewer right-of-way and easement over, under,

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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 Affected Property, to wit :

ALL THAT CERTAIN LOT OR PIECE OF GROUND SITUATE IN THE 59th WARD OF THE CITY OF PHILADELPHIA, AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT at the Southwest corner of Germantown Avenue (A.K.A. S.R. 4005, 60 feet wide, legally open) and Tulpleshocken Street (50 feet wide, legally open) : The following four (4) courses and distances :

- A. North 25 Degrees 13 Minutes 40 Seconds West, A Distance of 136.990 Feet to a Point, Thence;
- B. South 64 Degrees 46 Minutes 20 Seconds West, A Distance of 40.000 Feet to a Point, Thence;
- C. South 25 Degrees 13 Minutes 40 Seconds East, A Distance of 7.5000 Feet to a Point, Thence;
- D. South 44 Degrees 43 Minutes 14 Seconds West, A Distance of 262.914 Feet to the True Point and Place of Beginning,

and From Said Point of Beginning Running, Thence;

- 1. South 44 Degrees 43 Minutes 14 Seconds West, A Distance of 101.654 Feet to a Point, Thence;
- 2. North 15 Degrees 19 Minutes 20 Seconds East, A Distance of 125.342 Feet to a Point, Thence;
- 3. North 45 Degrees 09 Minutes 50 Seconds West, A Distance of 81.630 Feet to a Point, Thence;
- 4. North 45 Degrees 03 Minutes 55 Seconds East, A Distance of 19.999 Feet to a Point, Thence;
- 5. North 49 Degrees 32 Minutes 53 Seconds East, A Distance of 106.540 Feet to a Point, Thence;
- 6. North 20 Degrees 26 Minutes 46 Seconds West, A Distance of 43.959 Feet to a Point, Thence;
- 7. North 43 Degrees 45 Minutes 28 Seconds East, A Distance of 55.423 Feet to a Point, Thence;

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8. South 20 Degrees 26 Minutes 46 Seconds East, A Distance of 83.224 Feet to a Point, Thence;
9. South 45 Degrees 03 Minutes 55 Seconds West, A Distance of 115.273 Feet to a Point, Thence;
10. South 45 Degrees 09 Minutes 50 Seconds East, A Distance of 67.727 Feet to a Point, Thence;
11. South 15 Degrees 19 Minutes 20 Seconds West, A Distance of 65.871 Feet to The Point And
Place of Beginning.

Containing 16,233 Square Feet or 0.37265 Acre

The right-of-way and easement for drainage and sewer purposes, described herein, is according to a plan entitled "PROPOSED SEWER RIGHT-OF-WAY PLAN FOR GERMANTOWN AVENUE FROM TULPEHOCKEN STREET TO WASHINGTON LANE", prepared by Philadelphia Water department Survey Unit, 3585 Fox Street, Philadelphia, PA, dated January 5, 2005 (Plan Number Y484).

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 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 it's 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

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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: 6208 through 6230 Germantown Avenue
Philadelphia, PA 19144

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.

**CITY OF PHILADELPHIA
WATER DEPARTMENT**

APPROVED AS TO FORM

By: _____
BERNARD BRUNWASSER
WATER COMMISSIONER

GRANTOR

WITNESS

By: _____

By: _____”

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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.

A handwritten signature in black ink that reads "Patricia Rafferty". The signature is written in a cursive, flowing style.

Patricia Rafferty
Chief Clerk of the City Council