

Legislation Text

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To authorize the Water Commissioner on behalf of the City to enter into an agreement with Villa Vincent, Inc., the owner of the property at 5830 through 5838 Germantown avenue for the grant of right-of-way to the City for drainage, sewer and water main purposes extending westerly of Germantown avenue; thence northerly to the southeasterly line of Rittenhouse street, under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. The Water Commissioner is hereby authorized to enter into an agreement with Villa Vincent, Inc., the owner of the property at 5830 through 5838 Germantown avenue for the grant of right-of-way to the City for drainage, sewer and water main purposes extending westerly of Germantown avenue; thence northerly to the southeasterly line of Rittenhouse 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 _____20____, by and between **VILLA VINCENT, INC.**, the record owners of a certain Property at **5830 through 5838 GERMANTOWN AVENUE** in the 22nd Ward, Philadelphia, Pennsylvania (hereinafter called “Owner”) and **THE CITY OF PHILADELPHIA** (hereinafter called “City”) being hereafter called the Parties;

WITNESSETH:

WHEREAS, CIP Housing, L.P., the owner of the premises at 38 through 60 West Rittenhouse street, is located approximately one hundred and sixty-nine feet west of Germantown avenue, in the rear of Owner's property; and

WHEREAS, CIP Housing, L.P proposes to develop its property and does not have frontage on a public street with public sewers; and

WHEREAS, CIP Housing, L.P proposes to construct a sewer to City standards, through Owner’s premises from the westerly line of Germantown avenue, at a point south of Rittenhouse street, to the common property line, west of Germantown avenue; thence northerly to the southeasterly line of Rittenhouse street; and

WHEREAS, the City proposes to accept ownership of said sewer from CIP Housing, L.P. in

accordance with The Philadelphia Code; and

WHEREAS, Owner is agreeable to the proposed development, the construction of the sewer by CIP Housing, L.P. and the City's acceptance of ownership of the sewer; and

WHEREAS, in order to construct and maintain the said proposed public utilities, the Owner must grant unto the City a certain right-of-way for drainage, sewer and water main purposes, of a varying width through Owner's premises from the westerly line of Germantown avenue, at a point south of Rittenhouse street, to the common property line, west of Germantown avenue; thence northerly to the southeasterly line of Rittenhouse street, 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, Owner, of the property at 5830 through 5838 Germantown Avenue, Philadelphia, Pennsylvania 19144 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, sewer and water main purposes over, under, along and of the following described property owned by the Owner, described Property being, to wit :

ALL THAT CERTAIN LOT OR PIECE OF GROUND SITUATE IN THE 22ND WARD OF THE CITY OF PHILADELPHIA, COMMONWEALTH OF PENNSYLVANIA, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING at a point on the Southeasterly line of Rittenhouse street (33' wide), S 42°04'20" W, said point being measured along same, a distance of 154.291 feet from the intersection of the Southwesterly line of Germantown avenue (as widened to 63 feet); thence from a point of beginning S 42°04'20" W, along the Southeasterly line of Rittenhouse street, a distance of 15.00 feet to a point; thence S 47°55'40" E, a distance of 121.339 feet to a point; thence N 42°04'20" E, a distance of 88.112 feet to a point; thence N 64°06'10" E, a

distance of 32.648 feet to a point; thence S 62°36'10" E, a distance of 0.208 feet to a point on the Southeasterly line of Gemantown avenue (as widened to 63 feet); thence N 27°08'50" W, a distance of 50.006 feet to a point; thence S 64°06'10" W, a distance of 41.497 feet to a point; thence N 47°55'40" W, a distance of 71.339 feet to the point of beginning.

CONTAINING an area of 7578 Square Feet or 0.174 Acres.

BEING all of Lot "B" and a portion of Lots "A", "C", "D" and "E-1", as shown on a Plan of Property, made for Thomas Massaro by Joel S. Cirello, Surveyor and Regulator, Ninth Survey District, dated June 13, 1994.

Said description, made by Edward S. McConnell, PLS, PA License No. SU-017313-E, is a right-of-way for drainage, sewer and water main purposes (of varied width) extending in a southwesterly direction from the Southeasterly line of Rittenhouse street, thence northeasterly to the Southwesterly line of Germantown avenue.

2. 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 or which the said City may hereafter at any time desire to locate therein.

3. 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.

4. 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.

5. 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

KUMAR KISHINCHAND
WATER COMMISSIONER

ATTEST

VILLA VINCENT, INC.

WITNESS

By

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.