

Legislation Text

File #: 040606, Version: 0

Authorizing the Water Commissioner on behalf of the City to enter into an agreement with the owners of the properties and their successors of a private ten feet wide alley, located south of Rowan Street and north of Saint Paul Street from Sixteenth Street to approximately 252 feet west of Sixteenth for the grant of a right-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 agreement, substantially in the form set forth in Exhibit A, with the owners and their successors of a private ten feet wide alley, located south of Rowan Street and north of Saint Paul Street from Sixteenth Street to approximately 252 feet west of Sixteenth for the grant of a right-of-way to the City for drainage and sewer 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.

Exhibit A

“RIGHT OF WAY AND EASEMENT AGREEMENT

THIS AGREEMENT, made this _____ day of _____, 200____, by and between, _____, the record owners of a certain Property at _____ **ROWAN STREET/SAINT PAUL STREET** in the 13th Ward, Philadelphia, Pennsylvania, hereinafter called “Grantor”, and THE CITY OF PHILADELPHIA, hereinafter called “City”;

WITNESSETH:

WHEREAS, the south side of Rowan Street and the north side of Saint Paul Street, hold in common, a private ten feet wide alley in the rear of their properties. The alley begins at Sixteenth Street and travels westward to approximately 252 feet west of Sixteenth Street. A good portion of the properties that front this alley are serviced by a private sewer located in the alley; and

WHEREAS, the existing private sewer in the alley is in a deteriorated condition and requires replacement; and

WHEREAS, the homeowners have requested the City to provide a public sewer; and

WHEREAS, in order to construct and maintain the said public sewer the property owners of the south side of Rowan Street and north side of Saint Paul Street must grant unto the City a certain right-of-way for drainage and sewer purposes, ten feet wide extending in a westerly direction from Sixteenth Street to approximately 252 feet west of Sixteenth 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, Grantor the owner of the property at _____ Rowan Street/Saint Paul Street, Philadelphia, Pennsylvania 19140 (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, 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 13TH WARD OF THE CITY OF PHILADELPHIA, DESCRIBED AS FOLLOWS:

ALL THAT CERTAIN lot or piece of ground , SITUATE on the Westerly side of 16th Street (50' wide) the distance of 32 feet 2 3/8 inches Northwardly from the Northerly side of Saint Paul Street (30' wide) in the 13th Ward of the City of Philadelphia.

CONTAINING in front or breath on said 16th street 10 feet and extending of that width in length or depth Westwardly between parallel lines at right angles to the said 16th street 252 feet 4-1/2 inches to the Western line of a certain 12 feet 4-1/2 inches alley which extends Southwardly into the said Saint Paul Street.

The right-of-way for Drainage and Sewer Purposes, described herein, is according to a "PLAN SHOWING THE LOCATION OF A PROPOSED 10 FEET WIDE RIGHT-OF-WAY FOR DRAINAGE AND SEWER PURPOSES BETWEEN ROWAN STREET AND SAINT PAUL STREET AND BETWEEN 16TH STREET AND 17TH STREET", dated April 15, 2004, prepared by the Philadelphia Water Department Survey Unit, 3585 Fox Street, Philadelphia, PA 19129.

3. Grantor hereby grants the City, its officers, agents, employees and contractors the right of access, ingress, egress to and from the Easement 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 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 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: _____ Rowan Street/Saint Paul Street
Philadelphia, PA 19140

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 Affected Property included within the Easement nor of any interest in the oil, gas and other minerals in, on or under the Affected Property 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: _____
BERNARD BRUNWASSER
WATE COMMISSIONER

GRANTOR

By: _____

WITNESS

By: _____”