



City of Philadelphia

Philadelphia, PA 19107

BILL NO. 050134

Introduced February 17, 2005

Councilmember DiCicco

**Referred to the
Committee on Streets and Services**

AN ORDINANCE

Authorizing the Water Commissioner on behalf of the City to enter into an agreement with the owners of the properties and their successors at 925 through 927, 925 Rear, 923, 923 Rear Number 1, 923 Rear Number 2 and 923 Rear Number 3 South Second Street for the grant of a right-of-way to the City in the bed of a private street, known as Salter Street 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 of the properties and their successors at 925 through 927, 925 Rear, 923, 923 Rear Number 1, 923 Rear Number 2 and 923 Rear Number 3 South Second Street for the grant of a right-of-way to the City in the bed of a private street, known as Salter Street 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, _____ the record owner of a
certain Property at South Second Street in the 2nd Ward,
Philadelphia, Pennsylvania, hereinafter called “Grantor”, and THE CITY OF
PHILADELPHIA, hereinafter called “City”;

WITNESSETH:

WHEREAS, the properties on the south side of a private street, known as
Salter Street, compromises various lots that are being developed as the Shot Tower Place
Housing Development; and

WHEREAS, the sewer and water main for the development are to be
constructed to City standards in the bed of the said Salter Street and dedicated to the City
in accordance with Chapter 13-300 and Chapter 13-400 of the Philadelphia Code;

WHEREAS, in order to accept and maintain the said sewer and water
main from the developer, the property owners having frontage on the said Salter Street
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 owners of the property at _____ South Second
Street, Philadelphia, Pennsylvania 19147 (herein after referred to as the “Affected
Property”) hereby give, grant, convey unto the City its successors and assigns, all their

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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 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 2ND WARD OF THE CITY OF PHILADELPHIA, BEING BED OF A PRIVATE STREET, KNOWN AS SALTER STREET, FROM SECOND STREET TO APPROXIMATELY 149 FEET EAST OF SECOND STREET AND DESCRIBED AS FOLLOWS:

BEGINNING at a point of intersection on the easterly right-of-way line of Second Street (50 feet wide, legally open) and the northerly line of a private street, known as Salter Street (15 feet wide, not legally open, formerly known as Little Belt Place). Said point being a distance of 175.42 feet measured along the easterly side of Second Street from the intersection of the southerly right-of-way line of Christian Street (60 feet wide, legally open); Thence, extending from the said point of Beginning the following courses; 1) Extending along the northerly line of Salter Street South 68°57'30" East, a distance of 148.96 feet to a point; Thence, 2) South 11° 29'50" West, a distance of 7.93 feet to a point; Thence, 3) South 11°22'55" West, a distance of 7.05 feet to a point; Thence, 4) South 17°25'36" West, a distance of 2.01 feet to a point; Thence 5) North 68°56'50" West, a distance of 148.77 feet to a point in the easterly line of Second Street; Thence, 6) along the said line of Second Street, North 11°29'50" East, a distance of 16.97 feet to the first mentioned point and place of Beginning. Containing 2,523 square feet or 0.058 Acres of land, more or less.

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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 PLAN FOR SALTER STREET FOR SHOT TOWER PLACE, 925-35 SOUTH SECOND STREET, prepared by the City of, Philadelphia Water Department's Survey Unit, 3585 Fox Street, Philadelphia, PA 19129, Plan Number Y#477, dated October 15, 2004.

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 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.

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

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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: _____ South Second Street
Philadelphia, PA 19147

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.

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.

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APPROVED AS TO FORM

**CITY OF PHILADELPHIA
WATER DEPARTMENT**

By:_____

**BERNARD
BRUNWASSER
WATER
COMMISSIONER**

GRANTOR

By:_____”

WITNESS