



Text File

**Introduced:** 12/15/2009

**Bill No:** 2009-2075, **Version:** 1

**Committee:** Committee on Public Works

**Status:** Passed Finally

Resolution Authorizing the execution of a Temporary Easement and Dedication Agreement between the Housing Authority of the City of Pittsburgh, a public body corporate and politic organized and existing under the Housing Authorities Law of the Commonwealth of Pennsylvania, and the City of Pittsburgh, a municipal corporation of the Commonwealth of Pennsylvania, for real property in the Hill District.

**WHEREAS**, the Housing Authority is the owner of property in the Fifth Ward of the City of Pittsburgh (the "Property") upon which is being developed approximately 450 units of residential housing (the "Development");

**WHEREAS**, approval of the Development has been granted by the Planning Commission of the City of Pittsburgh;

**WHEREAS**, in order to facilitate the Development, it is necessary that four areas of City rights of way be vacated by the City, including a section of Burrows Street as shown and described on Exhibit A hereto and made a part hereof (the "Burrows Street Section");

**WHEREAS**, the Housing Authority has filed an application and petition with the City seeking approval of the vacation of the four areas of public rights of way including the above referenced Burrows Street Section;

**WHEREAS**, the Urban Redevelopment Authority of Pittsburgh has agreed to construct a new public road as part of the Development referred to herein as the Oak Hill Drive Extension, as generally shown and described on Exhibit B hereto and made a part hereof;

**WHEREAS**, the construction of Oak Hill Drive Extension will make it unnecessary that the Burrows Street Section remain opened to, and used by, the public for vehicular and pedestrian traffic; and

**WHEREAS**, in order to allow the Burrows Street Section to remain open to public traffic for the period following the City's vacation of the Burrows Street Section and terminating upon the completion and dedication of the Oak Hill Drive Extension and the City's acceptance thereof as a public street (the "Temporary Easement and Dedication Period"), the Housing Authority has agreed to grant to the City a temporary easement, and to dedicate to the City a public right of way, for the Burrows Street Section for that Temporary Easement and Dedication Period.

**Be it resolved by the Council of the City of Pittsburgh as follows:**

**Section 1.** Authorizing the execution of a Temporary Easement and Dedication Agreement between the

Housing Authority of the City of Pittsburgh, a public body corporate and politic organized and existing under the Housing Authorities Law of the Commonwealth of Pennsylvania, and the City of Pittsburgh, a municipal corporation of the Commonwealth of Pennsylvania, for real property in the Hill District.

Intending to be legally bound hereby, the parties hereto agree as follows:

1. The foregoing recitals are incorporated herein by reference and made a part hereof.
2. The Housing Authority hereby dedicates, grants and conveys to the City subject to any and all easements and other matters set forth in instruments of record and/or apparent on the Property including without limitation the Burrows Street Section, a temporary easement and dedication (the "Temporary Easement and Dedication") to public use over, on and across the Burrows Street Section allowing the use of the Burrows Street Section for a public road and right of way.
3. The term of this Temporary Easement and Dedication shall be for the Temporary Easement and Dedication Period, e.g., it shall commence on the effective date of the City's vacation of the Burrows Street Section, and shall automatically terminate, without the necessity of further action by the City or the Housing Authority, upon the effective date of the City's acceptance of the Oak Hill Drive Extension as a public right of way.
4. The parties understand and agree that Oak Hill Drive Extension as generally shown on Exhibit B may be renamed, or its location as constructed by URA and accepted by the City may be modified from the exact location shown on Exhibit B, but that such renaming or modification of location shall not change the termination date of this Temporary Easement and Dedication as provided in paragraph 3 hereof.
5. During the Temporary Easement and Dedication Period, the City shall remain responsible for the Burrows Street Section in the same manner, and shall have the same rights and obligations, as if the Burrows Street Section had not been vacated.
6. Upon the expiration of the Temporary Easement and Dedication Period, all rights and obligations of the City in and to the Burrows Street Section shall cease and terminate.
7.
  - a) This Agreement contains the entire agreement of the parties respecting the matters set forth herein. This Agreement may not be modified, discharged or changed in any respect whatsoever, except by further agreement in writing duly executed by the parties hereof.
  - b) This Agreement and all of the terms and provisions hereof shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania without regard to its conflict of laws principles.
  - c) If any provisions or portions of this Agreement shall, to any extent, be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each provision shall be valid and enforceable to the fullest extent permitted by law.

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d) This Agreement is intended to be solely for the benefit of the parties hereto and is not intended to and shall not confer any rights or benefits on any third party not a signatory hereto.

e) This Agreement may be executed in counterparts.

f) The City has authorized the execution of this Agreement by Resolution No. \_\_\_\_\_ of 2009 effective December \_\_\_\_\_, 2009.