

ORDINANCE NO. 297

AN ORDINANCE OF THE BOROUGH OF MONROEVILLE PROVIDING FOR THE EXECUTION OF A CONTRACT WITH ALPHONSO MONZO, INDIVIDUALLY, AND TRADING AND DOING BUSINESS AS AL MONZO CONSTRUCTION COMPANY, AND DAISY ROSE MONZO, HIS WIFE, AND JOSEPH G. CREMONA AND MARCIA CREMONA, HIS WIFE, PROVIDING FOR THE ESTABLISHMENT AND PAYMENT OF A FIXED SEWER CONSTRUCTION FEE AND THE GRANTING OF AN EASEMENT THEREFOR.

BE IT ORDAINED AND ENACTED by the Borough of Monroeville, in Council assembled, and it is hereby ordained and enacted by the authority of the same.

SECTION 1. The proper officers of the Borough of Monroeville are hereby authorized to execute a contract with ALPHONSO MONZO, individually, and trading and doing business as AL MONZO CONSTRUCTION COMPANY, and DAISY ROSE MONZO, his wife, and JOSEPH G. CREMONA and MARCIA CREMONA, his wife, in substantially the following form:

A G R E E M E N T

THIS AGREEMENT, MADE AND ENTERED INTO this day of 1961, by and between ALPHONSO MONZO and DAISY ROSE MONZO, his wife, and JOSEPH G. CREMONA and MARCIA CREMONA, his wife,

and the said ALPHONSO MONZO, trading and doing business as AL MONZO CONSTRUCTION COMPANY, all of the Borough of Monroeville, Allegheny County, Pennsylvania, parties of the first part, hereinafter referred to as "MONZO",

and THE BOROUGH OF MONROEVILLE, a municipal corporation, organized and existing under the laws of the Commonwealth of Pennsylvania, and located in Allegheny County, Pennsylvania, party of the second part, hereinafter referred to as "THE BOROUGH".

W I T N E S S E T H:

WHEREAS, MONZO is the owner of a certain tract or piece of ground situate in the Borough of Monroeville, Allegheny County, Pennsylvania, consisting of approximately eight and one-half (8-1/2) acres, bordered on the North by the Toll Gate Motel, on the East by Moss Side Blvd., on the West by property of May Department Stores Company and on the South by the C.P. Whitehead Plan of Lots. A further description of said eight and one-half (8-1/2) acre tract is attached hereto, made part hereof and marked "Exhibit A"; and,

WHEREAS, MONZO is planning to construct a shopping center on said property; and,

WHEREAS, it will be necessary that sanitary sewer effluent be carried off from said shopping center and property through the BOROUGH sewer system and,

WHEREAS, a charge for commercial sewer users has not yet been established by Ordinance of the Borough of Monroeville; and,

WHEREAS, MONZO is desirous of proceeding immediately with the

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work of constructing said shopping center; and,

WHEREAS, PRIDE ENGINEERING ASSOCIATES, INC., the consulting engineers for the BOROUGH, has determined by various equitable formulas that a proper charge for said shopping center sewer service on a fixed fee basis would be Twenty Five Thousand and no/100 (\$25,000.00) Dollars; and,

WHEREAS, the BOROUGH did, through its Council meeting held July 20, 1961, approve the issuance of a building permit to MONZO to commence construction of his shopping center, subject to the payment of the said Twenty Five Thousand and no/100 (\$25,000.00) Dollars fixed fee sewer charge immediately upon completion by the BOROUGH of a trunk sewer line servicing the property of said MONZO; and,

WHEREAS, as a further inducement to the BOROUGH to construct the said trunk sewer line at this time, MONZO has agreed to grant to the BOROUGH for the consideration of the sum of One Dollar (\$1.00) only, a right-of-way through his said property for the said sewer line so that it may serve not only the MONZO property, but other areas of the BOROUGH as well.

NOW, THEREFORE, in consideration of the mutual promises and agreements herein contained, the parties hereto agree as follows:

1. MONZO agrees to pay to the BOROUGH the sum of Twenty Five Thousand and no/100 (\$25,000.00) Dollars as a fixed charge for the right and privilege of carrying effluent from the proposed shopping center to be built on the property hereinabove described whether from a proposed building or buildings placed on said property.
2. The BOROUGH agrees to permit MONZO, subject to the conditions of this Agreement, to use said sanitary sewer facilities fully and freely for the shopping center or any other building or buildings erected on said property hereinbefore described, as an integral part of the sanitary sewer system of the BOROUGH or its successors as long as said sewer is capable of repair for reasonable use and for a period which in no event shall be less than thirty (30) years from the date of the execution of this Agreement.
3. The said sum of Twenty Five Thousand and no/100 (\$25,000 00) Dollars shall be due and payable to the BOROUGH immediately upon completion of the construction of the sanitary sewer line from the property of the said MONZO up to and connecting with the trunk line sanitary sewer of the BOROUGH known as the North Pitcairn Extension. Payment shall be made in full and in cash within ten days' notice to MONZO upon completion of the sewer line.
4. The BOROUGH agrees to exonerate the said MONZO for any assessment or any other payment for the right to tap in or to otherwise use said sewer system for the said property as above described service thereby, except for any charges for the treatment of sewage by the Allegheny County Sanitary Authority, their successors or assigns, as may be imposed by the said Authority, by the BOROUGH or both.

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5. The BOROUGH shall have the sole discretion as to the proper size, standards and location of said sewer system, limited, however, insofar as MONZO is concerned, to the right-of-way granted to the BOROUGH by MONZO under the terms hereof.

6. For and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, as herein set forth, MONZO does hereby grant and convey unto the BOROUGH OF MONROEVILLE, its successors and assigns, a right-of-way and easement fifteen (15) feet in width through and across said MONZO'S property hereinabove described, with the center line of said right-of-way being more particularly described in Exhibit "B" attached hereto and made part hereof. To have and to hold the said right-of-way and easement unto and for the use of the said BOROUGH OF MONROEVILLE, its successors and assigns, for sanitary sewer purposes, forever. AND, the said MONZO, for themselves, their heirs, executors and administrators, covenant with the said BOROUGH OF MONROEVILLE, its successors and assigns, against all lawful claimants the same and every part thereof to warrant and defend.

7. MONZO further agrees to execute and acknowledge a short form of this right-of-way grant to the BOROUGH OF MONROEVILLE for purposes of recording.

8. MONZO further agrees to and does hereby grant to the BOROUGH, its agents, contractors and employees, a license to enter upon that portion of MONZO'S property lying within twenty-five (25) feet on either side of the center line of the right-of-way and easement above granted and described herein Exhibit "B". This license shall expire upon completion of construction of the said sanitary sewer line.

9. If for any reason said MONZO shall fail or refuse to pay the said sum of Twenty Five Thousand and no/100 (\$25,000.00) Dollars to the BOROUGH when due under the terms hereof, the BOROUGH shall have the full right and power to enter a lien against the property of the said MONZO in the nature of a municipal lien and shall have all power and authority to prosecute the same and collect the said sum, together with lawful interest, costs and attorney's commission of five (5%) per cent, under the Municipal Liens Act of the Commonwealth of Pennsylvania, as amended.

10. The BOROUGH agrees to cause to be constructed in the BOROUGH OF MONROEVILLE a sanitary sewer line generally defined as Contract No. 9-S, serving inter alia the said MONZO property and connecting the same into the trunk sewer line system of the BOROUGH. Nothing herein contained, however, shall obligate the BOROUGH to build any connecting lines from the said 9-S sewer line to any building or buildings to be built on the said MONZO property.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written

This Agreement shall be binding upon the parties hereto, their heirs, executors, administrators and assigns.

The execution of this Agreement has been authorized by an Ordinance of the BOROUGH OF MONROEVILLE at a meeting of Council of said BOROUGH

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held on the 15th day of August, 1961.

WITNESS:

S/Alphonso Monzo

S/Daisy Rose Monzo

S/Joseph G. Cremona

S/Marcia Cremona

AL MONZO CONSTRUCTION COMPANY

S/Alphonso Monzo

ATTEST:

BOROUGH OF MONROEVILLE

S/A.H.Curtis

By S/A.O.Strathern

A C K N O W L E D G M E N T

COMMONWEALTH OF PENNSYLVANIA)
) SS
COUNTY OF ALLEGHENY)

On this 5th day of Sept. 1961, before me, the undersigned authority, personally appeared ALPHONSO MONZO, individually, and trading and doing business as AL MONZO CONSTRUCTION COMPANY, and DAISY ROSE MONZO, his wife, and JOSEPH G. CREMONA and MARCIA CREMONA, his wife, known to me, or satisfactorily proved to be the persons whose names are subscribed as parties of the first part to the within instrument and acknowledged that they executed the same for the purposes therein contained.

S/John A. Kelly
Notary Public

ALL that certain tract or piece of ground situate in the Borough of Monroeville, Allegheny County, Pennsylvania, being more particularly bounded and described as follows: to-wit:

BEGINNING at a point in the center line of New Haymaker Road, an 80 foot public thoroughfare more commonly referred to as Route No. 48, at the dividing line between the property herein described and property now or formerly of E. Drurica; thence from said point of beginning by a common to the land herein described and land now or formerly of Dzurica, land now or formerly of H. C. Graham and the Fox Plan of Lots as the same is recorded in the recorder's Office of Allegheny County, in Plan Book Volume 30, page 14 and 15, North 86° 51' West, a distance of 681.28 feet

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to a point; thence continuing by a line common to the land herein described and the Fox Plan of Lots as the same is recorded aforesaid North 88° 29' West, a distance of 308.50 feet to a point in Fox Road, a 50 foot public thoroughfare; thence by a line in Fox Road and said line being common to the land herein described and property now or formerly of Allegheny Drive-In Theatre Company North 3° 49' 30" West, a distance of 588.75 feet to a point; thence by a line common to the land herein described and land now or formerly of R. C. McCully South 85° 20' East, a distance of 384.83 feet to a point in the center line of New Haymaker Road or Route No. 48, thence by the center line of New Haymaker Road or Route No. 48 by an arc of a circle curving to the right and having a radius of 1,146.28 feet, an arc distance of 336.33 feet to a point; thence continuing along the center line of New Haymaker Road also known as Route No. 48, South 50° 08' 30" East, a distance of 548.53 feet to a point at the place of beginning.

ALSO ALL that certain lot or piece of ground situate in the Borough of Monroeville (formerly Township of Patton), County of Allegheny and State of Pennsylvania, being part of lot numbered nine (9) in the C. P. Whitehead Plan of Lots as recorded in Plan Book Volume 29, Page 117, records of Allegheny County, Pennsylvania, being more particularly described as follows, to-wit:

BEGINNING at an iron pin in the northwestwardly corner of said lot numbered (9) at a point common to said lot and lands of Fox and McMaster thence eastwardly 446.5 feet more or less along dividing line between said lot and land of D. McMaster's heirs to a point upon a 20 foot right of way hereinafter granted; thence along said right of way in a southerly direction fifty-eight (58) feet to a point; thence westwardly 446.5 feet to a point on line of land formerly of Mrs. M. Fox 75 feet south of the place of beginning.

E X H I B I T "A"

LEGAL DESCRIPTION FOR GRANT OF RIGHT-OF-WAY

ALL that certain strip or parcel of land situate in the Borough of Monroeville, Allegheny County, Pennsylvania, being fifteen (15') feet in width, the center lines of which being described as follows, to-wit:

BEGINNING at a point on the southerly line of Moss Side Boulevard (80 feet wide) (Pennsylvania Route No. 48) said point being distant 367 feet, more or less, Northwest along Moss Side Boulevard (sometimes known as New Haymaker Road) from the dividing line between property now or formerly of E. Dzurica and property of Alphonso Monzo, et ux., et al; thence through property of the said Monzo South 9° 23' West, a distance of 273 feet more or less, to a point at the center of manhole 42 in the Borough of Monroeville Plans for the North Pitcairn Sanitary Sewer Extension Contract No. 2-S; thence South 7° 40' East, a distance of 41 feet more or less to a point on the northerly line of property of Edgar R. Starkey.

ALSO, BEGINNING at a point in property of the said Monzo at the center of manhole 42A of the said Borough of Monroeville Sanitary Sewer Plans, said point being South 9° 23' West, a distance of 62.05 feet more

or less, from the southerly line of Moss Side Boulevard; thence through property of the said Monzo the following courses and distances: North 57° 24' West, 62.20 feet to manhole 46 in said plan; thence North 66° 42' West, 206.28 feet to manhole 47 in said plan; thence North 54° 51' West, 206.18 feet to manhole 48 in said plan; thence North 56° 51' West, 80 feet more or less to the southerly line of property of Nelson Development Company.

The above center line descriptions are made according to a survey of Pride Engineering Associates, Inc. for the Borough of Monroeville North Pitcairn Sanitary Sewer Extension Contract No. 9-S, dated August, 1961, drawing No. 35944.

E X H I B I T "B"

SECTION 2. Any Ordinance or part of any Ordinance that shall conflict with this Ordinance is hereby repealed to the extent of such conflict.

ORDAINED AND ENACTED this 15th day of August, 1961.

Attest:
S/A.H.Curtis
Secretary

BOROUGH OF MONROEVILLE
S/A.O.Strathern
President of Council

Examined and approved by me this 5th day of Sept., 1961.

S/Anthony J. Martin
Burgess