

ORDINANCE NO. 359

AN ORDINANCE OF THE BOROUGH OF MONROEVILLE PROVIDING FOR THE EXECUTION OF A CONTRACT WITH MOSS SIDE PLAZA INC., PROVIDING FOR THE ADVANCEMENT OF COSTS FOR THE CONSTRUCTION OF A SANITARY SEWER LINE, AND PROVIDING FURTHER FOR THE REIMBURSEMENT THEREOF

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

SECTION 1. The proper officers of the Borough of Monroeville are hereby authorized to execute a contract with Moss Side Plaza Inc. in substantially the following form:

- A G R E E M E N T -

THIS AGREEMENT made and entered into this _____ day of _____, 1962, by and between MOSS SIDE PLAZA, INC., a Pennsylvania Corporation located in the Borough of Monroeville, Allegheny County, Pennsylvania, party of the first part,

A
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D

THE BOROUGH OF MONROEVILLE, a municipal corporation, organized and existing under the laws of the Commonwealth of Pennsylvania and seated in Allegheny County, Pennsylvania, party of the second part.

W I T N E S S E T H:

WHEREAS, the Said Moss Side Plaza, Inc. is about to construct a commercial building on the northerly side of Northern Pike near its intersection with Moss Side Boulevard, and

WHEREAS, it is the desire of the said party of the first part to have municipal sewer facilities serving their said properties, and

WHEREAS, the said party of the first part has indicated its willingness to advance to the Borough of Monroeville the cost of constructing sanitary sewer facilities to service its said properties, provided the same is reimbursed to them out of future income to the Borough of Monroeville from the other users of the said sanitary sewer line so constructed.

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

1. Upon execution of this Agreement, party of the first part shall deposit with Norman H. Sanderson, Treasurer of the Borough of Monroeville, the sum of TEN THOUSAND (10,000.00) DOLLARS to be held by the said Treasurer as escrow agent for the parties hereto, which sum shall be set aside in a separate bank account with the Pittsburgh National Bank, Miracle Mile Office.

2. The said sum of TEN THOUSAND (10,000.00) DOLLARS shall be used by the said escrow agent for the payment of all engineering fees, rights-of-way, permits and costs of construction of a sanitary sewer line from the property of the said party of the first part down to and connecting with existing sewer facilities of the Borough of Monroeville.

3. The Borough of Monroeville shall cause plans and specifications of the said sewer line to be prepared by its engineers, and shall have the contract for the construction of the said sewer advertised for bids in a manner as now provided by law.

4. Should the total of the said construction and engineering costs, permits and rights-of-way exceed TEN THOUSAND (10,000.00) DOLLARS, and should the party of the first part refuse to advance the additional amounts necessary to cover such costs, then the Borough of Monroeville may, at its option,

(a) Proceed with the construction of the said sewer line, advancing any additional cost out of its own funds; or

(b) Terminate this Agreement without further action.

5. In the event that the Borough of Monroeville elects to terminate this Agreement under the Terms of Paragraph 4-b above, the said escrow agent shall reimburse to the Borough of Monroeville all expenses incurred in connection with this Agreement for engineering fees, legal fees or advertising fees, or for costs of construction if the same has commenced. The remaining balance of the said escrow fund shall forthwith be repaid to the said party of the first part.

6. The plans and specifications for the said sewer line shall be made and determined solely by the Borough of Monroeville.

7. It is understood by the parties hereto that the said sewer line shall be designed to service property owners along its route as well as to be further extended at the discretion of the Borough of Monroeville to service such additional properties as it may see fit.

8. The escrow fund established under the terms of this Agreement shall be available for the payment of construction costs, engineering costs, rights-of-way acquisition and any permit fees that may be necessary for the use of state or county road rights-of-way or the crossing thereof, and payment by the said escrow agent shall be made by and upon direction of the Borough of Monroeville pursuant to action of its Council.

9. Upon completion of the sewer line to be built pursuant to this Agreement, the monies so advanced by the party of the first part under the terms hereof shall be reimbursed to it by the Borough out of any fixed fee charges received from additional users connecting into the sewer line. However, if the Borough has expended any of its own funds in the construction costs, engineering costs, right-of-way acquisition or permit fees on said sewer line, the Borough shall be first reimbursed in full for any sums so expended out of any fixed fee charges received from such additional users connecting thereto, before any of such fixed fee charges shall be applied toward reimbursement to the party of the first part. Furthermore, such reimbursements shall be payable by the Borough of Monroeville only when, as and if received during a period of ten (10) years from the date hereof. At the expiration of such ten (10) year period, the Borough of Monroeville shall have no further obligation for such reimbursement. If the said sewer line shall be extended by the Borough of Monroeville to service any additional users, all costs and expenses of such extension shall first be paid out of the fixed fee charges from any additional users before the same are applied as reimbursement to the party of the first part as hereinabove set forth.

10. The total reimbursement due the party of the first part hereunder, shall be reduced by any fixed fee charges to the property or the buildings of the party of the first part serviced directly or indirectly thereby.

11. Nothing herein contained shall in any way be construed to establish the fixed fee charged or any other charges for the use of said sewer by the party of the first part, its successors, assigns or lessees, it being expressly understood by the parties that such charges shall be established and paid pursuant to a Borough Ordinance when adopted.

12. It is further understood and agreed by the parties hereto that the said sewer line constructed under the terms hereof shall be, and at all times remain, the property of the Borough of Monroeville.

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

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

ATTEST:

MOSS SIDE PLAZA, INC.

_____ By _____

ATTEST:

BOROUGH OF MONROEVILLE

_____ By _____
Secretary President of Council

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 12th day of July, 1962.

ATTEST:

BOROUGH OF MONROEVILLE

S/ Gladys Diller
Asst. Secretary

By: S/ C. L. McClintock
Vice President of Council

Examined and approved by me this 12th day of July, 1962.

S/ John J. Duncan
Mayor