

**CITY OF SOUTH LEBANON, OHIO
RESOLUTION NO. 2023-27**

A RESOLUTION APPROVING AND AUTHORIZING MAYOR AND DIRECTOR OF FINANCE TO EXECUTE AN EASEMENT AGREEMENT FOR A PERPETUAL WATERLINE EASEMENT ON THE PROPERTY OWNED BY THE CITY OF LEBANON NECESSARY FOR THE CONSTRUCTION OF A WATER LINE, AND DECLARING AN EMERGENCY

WHEREAS, providing utilities, including the provision of safe, drinking water, is one of the functions of local municipal government; and,

WHEREAS, in order to extend public water service along Mason-Morrow-Millgrove Road west of Sutton Drive to serve additional areas of the City, certain easements are necessary to allow for the construction of a water main along this area; and,

WHEREAS, the City of Lebanon, being a property owner along the proposed water main location, has agreed to grant the City a perpetual Water Line Easement as per the terms in the attached Easement Agreement; and,

WHEREAS, immediate action is required for the City to acquire the said public water line easement to maintain the construction schedule for the project, and such action is necessary in order to preserve the public peace, health, safety or welfare of the City.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of South Lebanon, Ohio, at least two-thirds of all members elected thereto concurring:

Section 1. That the Council approves and authorizes the Mayor and Director of Finance to execute the Easement Agreement with the City of Lebanon, a copy of which is attached hereto.

Section 2. Authorizing the Director of Finance to pay the recordation costs to record the Easement Agreement in the Warren County Recorder's Office.

Section 3. That the recitals contained within the Whereas Clauses set forth above are incorporated by reference herein.

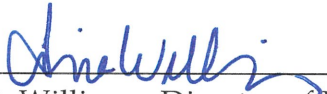
Resolution No. 2023-27

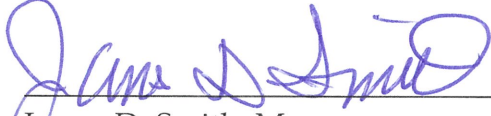
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Section 4. That this Resolution is hereby declared to be an emergency measure in accordance with Ohio Rev. Code § 731.30 for the immediate preservation of the public peace, health, safety and general welfare.

Section 5. That it is found and determined that all formal actions of the Council concerning and relating to the adoption of this Resolution were passed in an open meeting of Council in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Adopted this 6th day of July, 2023.


Attest: 
Petrina D. Williams, Director of Finance


James D. Smith, Mayor

Rules Suspended: <u>7/6/23</u> (if applicable)	Effective Date - <u>7/6/23</u>
Vote - <u>6</u> Yeas <u> </u> Nays	
First Reading - / /2023 Second Reading - / /2023	Effective Date - / /2023
Vote - <u> </u> Yeas <u> </u> Nays	

Prepared by and approved as to form:

ANDREW P. MEIER
LAW DIRECTOR
CITY OF SOUTH LEBANON, OHIO

By: 
Date: 7/6/2023

EASEMENT AND AGREEMENT

(Water Line and Appurtenances)

CITY OF LEBANON, an Ohio municipal corporation with an address of 50 South Broadway, Lebanon, Ohio 45036 ("Grantor"), for One Dollar and other good and valuable consideration recited herein paid by the **CITY OF SOUTH LEBANON**, an Ohio municipal corporation, acting by and through its duly elected **City Council**, an Ohio political subdivision operating under Title 7, et. seq. of the Ohio Revised Code, with an address of **10 High Street, South Lebanon, Ohio 45065** ("Grantee"), the receipt and sufficiency of which are hereby stipulated, does hereby grant to Grantee, its successors and assigns forever, an easement in, on, over, under, across and through the real property particularly described in Exhibit "A" and illustrated in Exhibit "B" (the "Easement Area"), both of which are attached hereto and incorporated by reference herein, for the purposes of constructing, installing, reconstructing, replacing, removing, repairing, maintaining and operating an underground water utility line and related apparatus and appurtenances thereto (the "Improvements"), for the public purpose and necessity of extending an underground water line.

The said permanent easement shall be subject to the following:

1. Grantee at its sole cost shall be entitled to survey, construct, use, operate, inspect, maintain and keep in repair thereon, replace and remove, the water utility line, apparatus and appurtenances within the Easement Area, including without limitation the activities customarily associated therewith and the right to remove or abate any obstructions or items that may endanger the safety of or interfere with Grantee's rights herein. The said Improvements shall be constructed or reconstructed in accordance with Project construction plans and specifications, a copy of which will be maintained on file in the Office of the South Lebanon City Administrator and available to Grantor at all times. Grantee shall, at its expense, promptly return the surface of the Easement Area to its former condition as nearly as is reasonably practicable subject to the rights in this Easement. Once Grantee commences construction of the Improvements, it shall diligently and expeditiously complete such construction. During construction of the Improvements, Grantee shall keep the worksite in neat, clean and orderly condition, and remove from Grantor's property any equipment or vehicles required for construction purposes when such equipment or vehicles are no longer being used for the same.

2. After Grantee's approval and acceptance of the said Improvements, Grantee agrees that upon subsequent entry by Grantee for the purpose of construction, installation, reconstruction, replacement, removal, repair, maintenance and operation of the Improvements, it will at Grantee's expense promptly restore the surface of Grantor's

property within the Easement Area to its former condition as nearly as is reasonably practicable. Grantor understands and agrees that restoration of Grantor's property within the Easement Area shall not include repair or replacement of any structures, improvements, fixtures, or other tangible items in the Easement Area.

3. The perpetual easement rights granted herein are "non-exclusive". Grantor retains the right to use Grantor's property for all purposes which do not in any manner impair Grantee's use or interfere with the construction, operation, maintenance, repair, removal, replacement or reconstruction of the Improvements or access thereto. Grantor shall not cause or allow any permanent or temporary building, structure, facility, or other improvement to be constructed in or upon the Easement Area, except utility service lines, paved parking, driveways, landscaping and sidewalks. If Grantor makes permanent or temporary improvements in or upon the Easement Area, other than those stated above, then Grantor shall assume full responsibility for any damage or destruction of such improvements by Grantee, and Grantee, its employees, agents, representatives and contractors, shall not be liable for any damage or destruction of such improvements during the good faith exercise of the rights granted herein. Any permanent or temporary improvements are subject to Grantee's approval.

4. Grantor hereby covenants with Grantee to be the true and lawful owner of the above-described real property and lawfully seized of the same in fee simple and having good, right, and full power to grant this Easement and will not convey or transfer fee simple ownership of the described real property prior to this instrument being recorded, and any subsequent transfers shall be subject to Grantee's rights established herein. Grantor further covenants and warrants to Grantee that this Easement is not subordinate to any mortgages.

5. Any reference in this instrument to Grantee shall also include its agents, contractors, employees, officials and insurers. All terms and conditions contained herein shall inure to the benefit of and be binding upon the parties and their respective successors and assigns. This Agreement contains the entire agreement between the parties and supersedes all prior written or oral agreements between the parties. No representations, promises, understandings, agreements, or otherwise, not herein contained shall be of any force or effect. No modifications or amendment of any provisions of this Agreement shall be effective unless made by a written instrument executed by all parties. This Agreement shall be construed in accordance with, and the legal relations between the parties shall be governed by, the laws of the State of Ohio as applicable to contracts executed and partially or fully performed in the State of Ohio. The parties further stipulate that the venue for any litigation arising out of this Agreement shall exclusively be the Warren County Court of Common Pleas, and do further knowingly waive any right to initiate or remove any such litigation to any other county, state or federal court.

[signature pages follow]

GRANTOR

City of Lebanon
~~Kings Local School District~~, an Ohio ^{municipal corporation} ~~public school district~~, the Grantor herein, has caused its name to be affixed hereto by Scott Brunka whose title is City Manager, on the date stated below, pursuant to the authority granted to him to act on the City's behalf by resolution or consent action.

CITY OF LEBANON, OHIO

SIGNATURE: _____
NAME: Scott Brunka
TITLE: City Manager
DATE: 6/21/23

STATE OF OHIO, COUNTY OF Warren, ss.

BE IT REMEMBERED, that on the 21st day of June, 2023, before me, the subscriber, a Notary Public, in and for said County and State, personally appeared an individual known or proven to me to be Scott Brunka whose title is City Manager of Lebanon, whose name is subscribed hereto, and who acknowledged the signing and execution of said instrument is his free and voluntary act and deed.



KELLI L. KLINE
Notary Public, State of Ohio
My Commission Expires:
August 17, 2025

Notary Public: Kelli L. Kline
My Commission Expires: Aug 17, 2025

GRANTEE:

IN EXECUTION WHEREOF, the City of South Lebanon, Ohio, acting through its City Council, has caused this instrument to be executed by James D. Smith, its Mayor, and Petrina D. Williams, its Fiscal Officer, on the date stated below, pursuant to Resolution Number 23-_____ dated _____.

CITY OF SOUTH LEBANON, OHIO

SIGNATURE: _____

NAME: James D. Smith

TITLE: Mayor

DATE: _____

SIGNATURE: *Petrina D. Williams*

NAME: Petrina D. Williams

TITLE: Fiscal Officer

DATE: 7/4/23

STATE OF OHIO, COUNTY OF WARREN, ss.

BE IT REMEMBERED, on this _____ day of _____, 2023, before me, the subscriber, a Notary Public in and for said state, personally came an individual or individuals known or proven to be **James D. Smith, Mayor** and **Petrina D. Williams, Fiscal Officer**, of the City of South Lebanon, Ohio, and pursuant to the authority granted to them to act on its behalf pursuant to Resolution Number 23-_____, dated _____, and while acting in their official capacity, did acknowledge the signing thereof to be their voluntary act and deed.

Notary Public: _____

My Commission Expires: _____

[SEAL]

THIS PREPARED AND APPROVED AS TO FORM BY:

CITY SOLICITOR
SOUTH LEBANON, OHIO

SIGNATURE: _____

NAME: Andrew P. Meier

TITLE: City Solicitor

DATE: _____

Exhibit "A"

DESCRIPTION FOR: 20' WATER MAIN EASEMENT

**LOCATION: Mason-Morrow-Millgrove Road
600 Square Feet**

Situate in Section 7, Town 4, Range 3, Symmes Purchase, City of Lebanon, Union Township, Warren County, Ohio and being part of a 25.3705 acre tract of land as conveyed to the City of Lebanon, Ohio by deed recorded in Official Record 240, Page 497 (all records of the Warren County, Ohio Recorder's Office) and also being a water main easement, 20.00 feet in width, more particularly described as follows:

Beginning at a point in the west line of grantor herein, and east line of a 13.045 acre tract of land as conveyed to the Kings Local School District by deed recorded in Document Number 2019-011703, lying North 74°05'04" East, 955.00 feet and South 15°54'56" East, 40.00 feet from the intersection of the centerline of Mason-Morrow-Millgrove Road (County Road No. 38) with the northeast right-of-way line of the Lebanon Countryside Trail (former Penn-Central Railroad);

Thence from said point of beginning, with a line parallel to and 40.00 feet south of said centerline, as measured perpendicular thereto, North 74°05'04" East, 30.00 feet to grantors east line and west line of a 7.240 acre tract of land as conveyed to Oeder & Sons Garage, Inc. by deed recorded in Official Record 490, Page 154;

Thence, along grantors east line and west line of said Oeder & Sons Garage, Inc., South 15°54'56" East, 20.00 feet;

Thence, with a line parallel to and 60.00 feet south of said centerline, as measured perpendicular thereto, South 74°05'04" West, 30.00 feet to grantors west line and east line of aforesaid Kings Local School District;

Thence, along grantors west line and east line of said Kings Local School District, North 15°54'56" West, 20.00 feet to the point of beginning.

Containing 600 square feet.

The above-described easement being for the purpose of construction, operation, maintenance, repair and/or replacement of the water main and its appurtenances contained therein.

Subject to all legal highways, easements and restrictions of record.

Bearings based on the US State Plane NAD 83 (Ohio South Zone 3402).


Being the result of an Easement Plat dated the 19th of August, 2021, prepared by McGill Smith Punshon, Inc. under the direction of Richard D. Nichols, P.S., Ohio Registration No. 7929.

Prepared by: McGill Smith Punshon, Inc.

Date: 19 AUG 2021

MSP No.: 06308.19

06308193-LEG-EAS-600sf-east

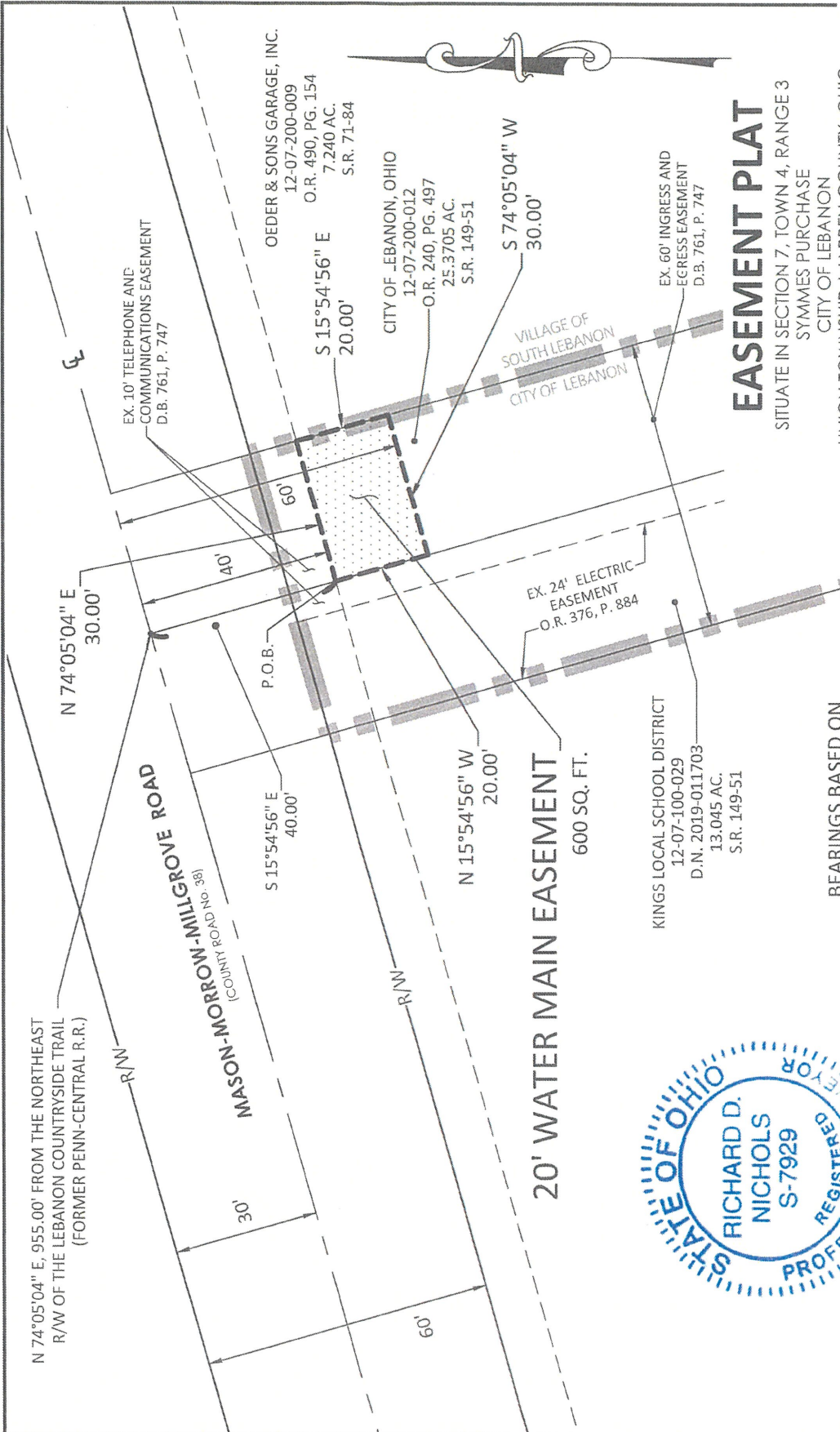


MSP DESIGN
McGill Smith Punshon

- Architecture
- Engineering
- Landscape Architecture
- Planning
- Surveying

3700 Park 42 Drive
 Suite 1908
 Cincinnati, OH 45241
 Phone 513.759.0004
 www.mspdesign.com

Date	19 AUG 2021
Scale	1" = 50'
Drawn By	CMB Proj. Migr. RDN
Survey Database	0630819
DWG	06308193-EAS-WM
X-Ref(s)	
Project Number	06308.19
File No.	06308.19 Sheet No. 1/1



EASEMENT PLAT
 SITUATE IN SECTION 7, TOWN 4, RANGE 3
 SYMMES PURCHASE
 CITY OF LEBANON
 UNION TOWNSHIP, WARREN COUNTY, OHIO

BEARINGS BASED ON
 US STATE PLANE NAD 83
 (OHIO SOUTH ZONE 3402)



Richard D. Nichols
 08/19/2021

