

CITY OF SOUTH LEBANON, OHIO
RESOLUTION NO. 2023-29

**A RESOLUTION APPROVING AND AUTHORIZING MAYOR AND THE
DIRECTOR OF FINANCE TO EXECUTE AN EASEMENT AGREEMENT FOR A
PERPETUAL WATERLINE EASEMENT ON THE PROPERTY OWNED BY THE
BOARD OF EDUCATION OF THE KINGS LOCAL SCHOOL DISTRICT
NECESSARY FOR THE CONSTRUCTION OF A WATER LINE, AND DECLARING
AN EMERGENCY**

WHEREAS, providing utilities, including the provision of safe, drinking water, is one 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 Board of Education of the Kings Local School District, 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 Board of Education of the Kings Local School District, 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.

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 3rd day of August, 2023.


Attest: 
Petrina D. Williams, Director of Finance/Clerk


James D. Smith, Mayor

Rules Suspended: <u>8/3/23</u> (if applicable)	Effective Date – <u>8/3/23</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
CITY SOLICITOR
SOUTH LEBANON, OHIO

By: 
Date: 8/3/2023

GRANTOR

The Board of Education of the Kings Local School District, an Ohio public school district, the Grantor herein, has caused its name to be affixed hereto by Mike Morrow, whose title is Treasurer, on the date stated below, pursuant to the authority granted to him to act on the school district's behalf by resolution or consent action.

KINGS LOCAL SCHOOL DISTRICT

SIGNATURE: <u>Stacie Belfrom</u>	SIGNATURE: <u>Mike Morrow</u>
NAME: Stacie Belfrom	NAME: Mike Morrow
TITLE: President	TITLE: Treasurer
DATE: <u>7/10/23</u>	DATE: <u>7/10/23</u>

STATE OF OHIO, COUNTY OF WARREN, ss.

BE IT REMEMBERED, that on the 10 day of July, 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 Stacey Belfrom, whose title is President of the Board of Education of the Kings Local School District, whose name is subscribed hereto, and who acknowledged the signing and execution of said instrument is her free and voluntary act and deed.



JANE BOEHM
NOTARY PUBLIC
STATE OF OHIO
Comm. Expires
03-27-2027

Notary Public: Jane Boehm
My Commission Expires: 3/27/27

STATE OF OHIO, COUNTY OF WARREN, ss.

BE IT REMEMBERED, that on the 10 day of July, 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 Mike Morrow whose title is Treasurer of the Board of Education of the Kings Local School District, whose name is subscribed hereto, and who acknowledged the signing and execution of said instrument is his free and voluntary act and deed.



JANE BOEHM
NOTARY PUBLIC
STATE OF OHIO
Comm. Expires
03-27-2027

Notary Public: Jane Boehm
My Commission Expires: 3/27/27

OPTIONAL

EASEMENT AND AGREEMENT

(Water Line and Appurtenances)

THE BOARD OF EDUCATION OF THE KINGS LOCAL SCHOOL DISTRICT, an Ohio public school district with an address of 1797 King Avenue, Kings Mills, Ohio 45034 (“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]

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 Director of Finance, on the date stated below, pursuant to Resolution Number 23- 27 dated August 3, 2023.

CITY OF SOUTH LEBANON, OHIO

SIGNATURE: [Signature]
NAME: James D. Smith

TITLE: Mayor

DATE: 8/3/2023

SIGNATURE: [Signature]
NAME: Petrina D. Williams

TITLE: Director of Finance

DATE: 8/3/23

STATE OF OHIO, COUNTY OF WARREN, ss.

BE IT REMEMBERED, on this 3rd day of August, 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, Director of Finance**, 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- 29 dated 8/3/23, and while acting in their official capacity, did acknowledge the signing thereof to be their voluntary act and deed.



Amy Butler
Notary Public, State of Ohio
My Commission expires
July 18, 2026

Notary Public: [Signature]
My Commission Expires: 07-18-2026

THIS PREPARED AND APPROVED AS TO FORM BY:

LAW DIRECTOR
CITY OF SOUTH LEBANON, OHIO

SIGNATURE: [Signature]
NAME: Andrew P. Meier

TITLE: Law Director

DATE: 8/3/2023

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 13.045 acre tract of land as conveyed to Kings Local School District by deed recorded in Document Number 2019-011703 (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 4.303 acre tract of land as conveyed to Oeder & Sons Garage, Inc. by deed recorded in Document Number 2019-004890, lying North 74°05'04" East, 925.00 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 25.3705 acre tract of land as conveyed to the City of Lebanon, Ohio by deed recorded in Official Record 240, Page 497;

Thence, along grantors east line and west line of said City of Lebanon, Ohio, 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 Oeder & Sons Garage, Inc.;

Thence, along grantors west line and east line of said Oeder & Sons, Inc., 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).

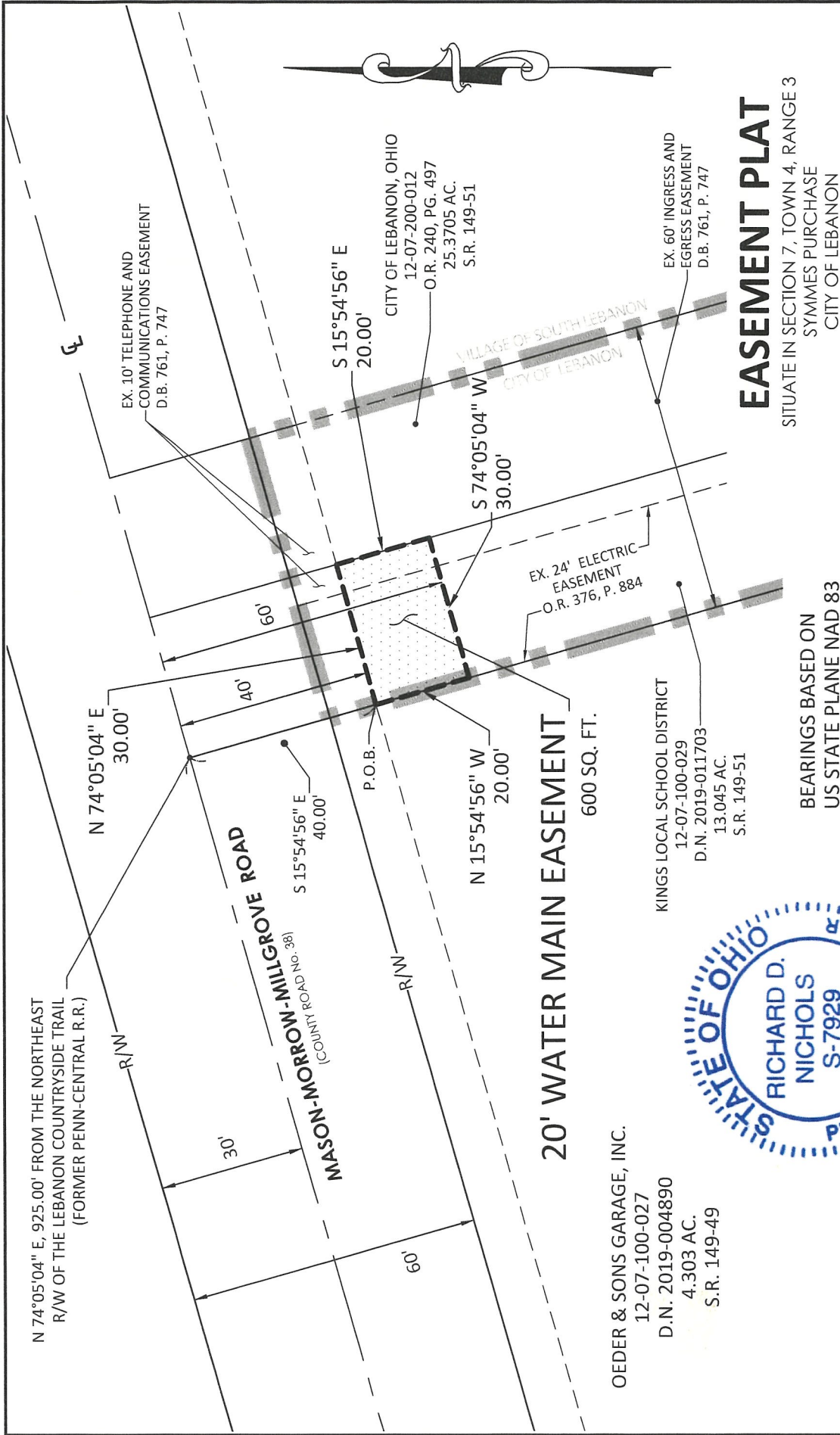
Being the result of an Easement Plat dated the 19th of August, 2021, prepared by McGill Smith Punshon, Inc. under the direction of Richard D. Nichols, P.S., Ohio Registration No. 7929.

Prepared by: McGill Smith Punshon, Inc.

Date: 19 AUG 2021

MSP No.: 06308.19

06308193-LEG-EAS-600sf-west



EASEMENT PLAT

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

MSP
D E S I G N
McGill Smith Punshon

- Architecture
- Engineering
- Landscape Architecture
- Planning
- Surveying

3700 Park 42 Drive
 Suite 190B
 Cincinnati OH 45241
 Phone 513.759.0004
 www.mspsdesign.com

Date	19 AUG 2021
Scale	1" = 30'
Drawn By	CMB Proj. Mgr.
Survey Database	0630819
DWG	06308193-EAS-WM
X-Ref(s)	
Project Number	06308.19
File No.	06308.19 Sheet No. 1 / 1

OEDER & SONS GARAGE, INC.
 12-07-100-027
 D.N. 2019-004890
 4.303 AC.
 S.R. 149-49



Richard D. Nichols
 08/19/2021

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

