

VILLAGE OF SOUTH LEBANON, OHIO  
RESOLUTION NO. 2017-10

**A RESOLUTION APPROVING AND AUTHORIZING THE GRANTING OF  
EASEMENT TO DUKE ENERGY OHIO, INC., RELATIVE TO THE RENOVATION  
OF THE OLD SOUTH LEBANON ELEMENTARY SCHOOL AND DECLARING AN  
EMERGENCY**

**WHEREAS**, as part of the South Lebanon Elementary School Renovation Project, an electrical transformer is required to be replaced to allow for the separating of the electrical service between the two-story building and the building commonly known as the "Community Center"; and,

**WHEREAS**, Duke Energy Ohio Inc. (Duke) is requiring the granting of an easement to the facility prior to commencing construction; and,

**WHEREAS**, the Village desires to grant the Duke an easement as described in the attached Exhibit "A" of the attached easement; and,

**WHEREAS**, immediate action is required for the timely recording of said easement which is necessary for construction to commence and such action is necessary in order to preserve the public peace, health, safety or welfare of the Village.

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

**Section 1.** That the Council approves and authorizes grants an easement to Duke Energy Ohio, Inc. on the property known as 10 N. High Street, South Lebanon, Ohio, a copy of which is attached hereto.

**Section 2.** That the Council authorizes the Mayor and Fiscal Officer to sign said Grant of Easement and any other documents required to complete the Grant of Easement.

**Section 3.** That the Council is acting in its administrative capacity in adopting this Resolution.

**Section 4.** That the recitals contained within the Whereas Clauses set forth above are incorporated by reference herein.

**Section 5.** 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 6.** 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      day of January, 2017.

Attest: Sharon Louallen James D. Smith  
Sharon Louallen, Fiscal Officer/Clerk James D. Smith, Mayor  
*Signed by Nicole Armstrong, Fiscal Officer*

Rules Suspended: <u>1/19/17</u> (if applicable)	Effective Date - <u>1/19/17</u>
Vote - <u>6</u> Yeas ___ Nays	
First Reading - / /2017	Effective Date - / /2017
Second Reading - / /2017	
Third Reading - / /2017	
Vote - ___ Yeas ___ Nays	

**CERTIFICATE OF POSTING**  
I, Nicole Armstrong, Fiscal Officer of the Village of South Lebanon, Ohio do hereby certify I posted a true and accurate copy of this ordinance or resolution, summary of ordinance or resolution, or statement, order, proclamation, notice or report, at five public places within the Village as authorized by Section 731.25 of the Ohio Revised Code and Ordinance 98-08 of Village of South Lebanon, Ohio.  
1/20/17 Nicole Armstrong  
Date Fiscal Officer  
Village of South Lebanon, Ohio

Prepared by and approved as to form:

PAUL R. REVELSON  
VILLAGE SOLICITOR  
SOUTH LEBANON, OHIO

By: \_\_\_\_\_

Date: 1/19/2017

## GRANT OF EASEMENT

Pt. Parcel # 12-01-234-012

In consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, **VILLAGE OF SOUTH LEBANON, WARREN COUNTY, OHIO** (hereinafter referred to as "Grantor"), hereby grant(s) unto **DUKE ENERGY OHIO, INC.**, an Ohio corporation, with a mailing address of 139 East Fourth Street, Cincinnati, OH 45202 and its successors and assigns (hereinafter referred to as "Grantee"), a perpetual, non-exclusive easement to construct, reconstruct, operate, patrol, maintain, repair, replace, relocate, add to, modify and remove, electric, and/or telecommunication line or lines including but not limited to, all necessary and convenient supporting structures, conduits, wires, cables, manholes, pullboxes, grounding systems, counterpoises, surface equipment (including, but not limited to, transformers and switchgears), and all other appurtenances, fixtures and equipment (hereinafter referred to as the "Facilities"), for the underground transmission and distribution of electrical energy, and for technological purposes (including but not limited to telecommunications), in, upon, over, along, under, through and across the following described real estate:

Situate in Section 1, Town 4 East, Range 3 North, Village of South Lebanon, Union Township, Warren County, State of Ohio, being part of Lots 75 and 76 of the Town Plat of Deerfield now known as South Lebanon as shown in Transcribed Record Book 1, Page 313, being Parcel No. 1 as conveyed to the **VILLAGE OF SOUTH LEBANON, WARREN COUNTY, OHIO** from The Board of Education of Union Township, Warren County, Ohio now known as the Board of Education of Kings Local School District, Warren County, Ohio as recorded in **Deed Book 2662, Page 411**, in the Office of the Recorder of Warren County, Ohio (hereinafter referred to as "Grantor's Property").

Said easement being a strip of land fifteen feet (15.0') in uniform width, lying seven and a half feet (7.5') wide on both sides of a centerline which centerline shall be shown on Exhibit A, attached hereto and becoming a part hereof (hereinafter referred to as the "Easement Area").

This easement grant shall include, but not be limited to, the following respective rights and duties of Grantor and Grantee:

1. Grantee shall have the right of ingress and egress over the Easement Area, and over the adjoining land of Grantor's Property (using lanes, driveways, and adjoining public roads where practical as determined by Grantee).

2. Grantee shall have the right to cut down, clear, trim, remove, and otherwise control any trees, shrubs, overhanging branches, and/or other vegetation upon or over the Easement Area. Grantee shall also have the right to cut down, clear, trim, remove, and otherwise control any trees, shrubs, overhanging branches, and/or other vegetation which are adjacent to the Easement Area but only to the extent such vegetation may endanger, as reasonably determined by Grantee, the safe or reliable operation of the Facilities, or where such vegetation is trimmed consistent with generally accepted arboricultural practices.

3. Grantee shall have the right to allow third parties to trench with Grantee's Facilities, and any such equipment shall include but not be limited to, wires, cables, and other fixtures; provided, that Grantor shall pursue any claim with the third party and not Grantee, if any such claim arises out of any third party's facility location.

4. To the best of Grantor's knowledge, the Easement Area and the adjoining land of Grantor's Property, have never been used to release, discharge, generate or store any toxic, hazardous, corrosive, radioactive or otherwise harmful substance or material.

5. Grantor shall not place, or permit the placement of, any obstructions, which may interfere with the exercise of the rights granted herein to Grantee. Grantee shall have the right to remove any such obstruction.

6. Grantee shall have the right to pile dirt and other material and to operate equipment upon the surface of the Easement Area and the adjoining land of Grantor's Property, *but only* during those times when Grantee is constructing, reconstructing, maintaining, repairing, replacing, relocating, adding to, modifying, or removing the Facilities.

7. Excluding the removal of vegetation and obstructions as provided herein, any physical damage to the surface area of the Easement Area and the adjoining land of Grantor's Property resulting from the exercise of the rights granted herein to Grantee, shall be promptly paid by Grantee, or repaired or restored by Grantee to a condition which is reasonably close to the condition it was in prior to the damage, all to the extent such damage is caused by Grantee or its contractors or employees. In the event that Grantee does not, in the opinion of Grantor, satisfactorily repair any damage, Grantor must, within ninety (90) days after such damage occurs, file a claim for such damage with Grantee at (a) 139 East Fourth Street, Cincinnati, OH 45202, Attn: Right of Way Services, or (b) by contacting an authorized Right of Way Services representative of Grantee.

8. Grantor shall have the right to use the Easement Area and the adjoining land of Grantor's Property in any manner which is consistent with the rights granted herein to Grantee, and shall comply with all applicable codes when making use of the land near the Facilities.

9. Notwithstanding anything to the contrary contained herein, Grantor shall not without the prior written consent of Grantee (a) construct or install, or permit the construction or installation of any building, house, or other above-ground structure, or portion thereof, upon the Easement Area; or (b) excavate or place, or permit the excavation or placement of any dirt or other material upon or below the Easement Area; or (c) cause, by excavation or placement of material, either on or off the Easement Area, a pond, lake, or similar containment vehicle that would result in the retention of water in any manner within the Easement Area.

10. Grantor warrants that it has the necessary authority and title to Grantor's Property to grant this easement to Grantee, and shall defend and hold Grantee harmless from the claim of any third party that Grantor does not have such authority or title.

11. The respective rights and duties herein of Grantor and Grantee shall inure to the benefit of, and shall be binding upon the respective successors, assigns, heirs, personal representatives, lessees, licensees, and/or tenants of Grantor and Grantee. Easement, Grantor and Grantee, as used herein, shall be deemed to be plural, when required to be so. The exercise of any or all of the rights and privileges of Grantee set forth herein, shall be at the sole discretion of Grantee.

Signature page follow.

IN WITNESS WHEREOF, Grantor has caused this Grant of Easement to be signed by its duly authorized representative(s), effective the 19th day of January, 2017.

VILLAGE OF SOUTH LEBANON, WARREN COUNTY, OHIO, Grantor

By: James D Smith  
Printed Name: JAMES D Smith  
Printed Title: MAYOR

By: Nicole Armstrong  
Printed Name: Nicole Armstrong  
Printed Title: Fiscal Officer

STATE OF OHIO  
COUNTY OF WARREN )  
  ) SS:

Personally appeared before me this day Nicole Armstrong and James D Smith, (a) duly authorized representative(s) of Grantor and acknowledged the signing of this Grant of Easement by same to be a voluntary act and deed for and on behalf of Grantor, and having been duly sworn/affirmed, state(s) that any representations contained therein are true to the best of my personal knowledge.

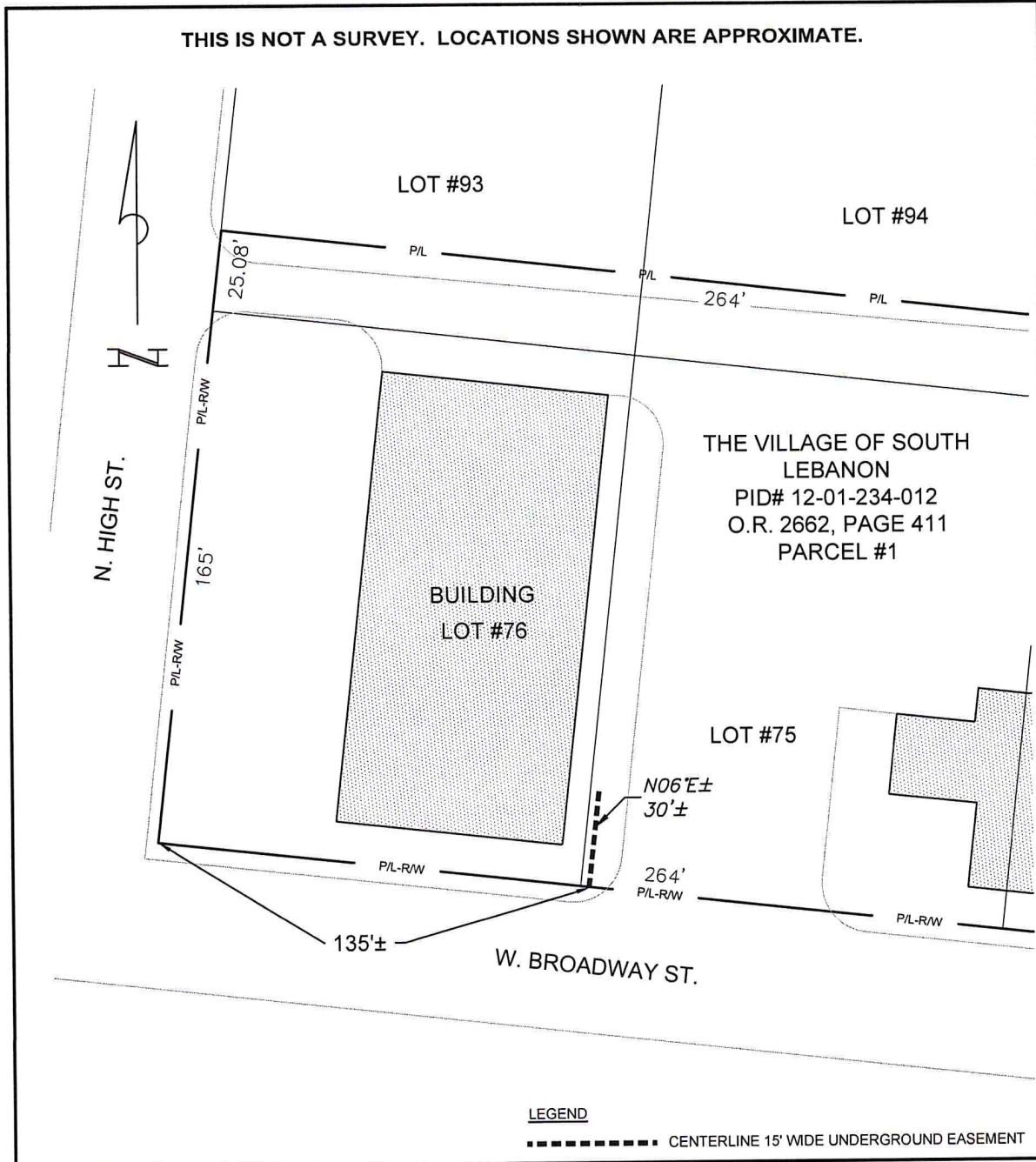
WITNESS my hand and notarial seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

My Commission Expires: \_\_\_\_\_ Signed Name: Brianna M. Yarbrough  
My County of Residence: \_\_\_\_\_ Printed Name: Brianna M. Yarbrough  
My Commission Expires 9-15-2021  
Recorded in Warren County

This Instrument Prepared by Janice L. Walker, Attorney-at-Law, 139 E. Fourth St. Cincinnati, OH 45202

For Grantee's Internal Use:  
Work Order # E11788345  
LU# \_\_\_\_\_  
Prep/Clk: JW Exec/Rec: \_\_\_\_\_  
Dwg/Fac Ref.: WRO - 17095  
Prepared Date: \_\_\_\_\_

THIS IS NOT A SURVEY. LOCATIONS SHOWN ARE APPROXIMATE.



<p><b>SAFETY EXPECTATIONS FOR THIS JOB ARE THAT YOU</b></p> <ul style="list-style-type: none"> <li>• REDUCE RISK</li> <li>• REMOVE EXPOSURE TO HAZARDS</li> <li>• REINFORCE SAFE BEHAVIOR</li> </ul>	<p><b>DUKE ENERGY OHIO, INC. - EXHIBIT "A"</b></p>		<p>139 E. FOURTH STREET                  CINCINNATI, OHIO 45202</p>	
	<p>PROPERTY OWNER:                  THE VILLAGE OF SOUTH LEBANON, WARREN COUNTY, OHIO</p>			
	<p>LOCATION:                  10 N. HIGH ST., SEC 1, T-4, R-3                  UNION TWP, WARREN COUNTY, STATE OF OHIO</p>			
	<p>DATE: 1/09/2017</p>	<p>DRAWN BY: DEB</p>	<p>CHECKED BY: MT</p>	
	<p>REVISION DATE: 1/12/17</p>	<p>REVISED BY: DEB</p>	<p>eMax # 11788345</p>	