

MEMORANDUM

To: Dublin City Council
Marsha Grigsby, City Manager
Paul Hammersmith, City Engineer

From: Philip K. Hartmann

Date: May 1, 2014

Re: Ordinance No. 35-14
Dublin Road South Multi-Use Path Project
Jack M. McKitrick and Sue E. McKitrick - Donation

PROJECT BACKGROUND

The City of Dublin ("City") is preparing to construct a multi-use path along Dublin Road (the "Project"). The City is obtaining certain permanent property interests from various landowners to construct the path, as well as also acquiring temporary easements to perform minor grading and construction.

Jack M. McKitrick and Sue E. McKitrick (the "Grantors") own one of the properties from which the City desires a permanent storm water easement. This property is identified as Parcel No. 270-000400 and is located at 5945 Dublin Road, Dublin, OH 43017.

The City has reached an amicable resolution with the Grantors. This Ordinance authorizes the City Manager to accept a donation of the necessary property from Jack and Sue McKitrick.

PROPERTY TO BE APPROPRIATED

The appropriation consists of the following property interests, as depicted in the map attached hereto:

Franklin County Parcel No. 270-000400	
Permanent Easement	0.002 acre, more or less

Memo re. Ordinance 35-14 – Easement Donation – Jack and Sue McKitrick
May 1, 2014
Page Two

RECOMMENDATION

The Law Department recommends approval of Ordinance No. 35-14 at the second reading/public hearing on May 19, 2014 to accept the donation from Jack M. McKitrick and Sue E, McKitrick and continue moving the Project forward.

RECORD OF ORDINANCES

Dayton Legal Blank, Inc.

Form No. 30043

Ordinance No. 35-14

Passed _____, 20____

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ACCEPT AND RECEIVE A 0.002 ACRE, MORE OR LESS, PERMANENT STORM WATER EASEMENT DONATED BY JACK M. MCKITRICK AND SUE E. MCKITRICK, FOR THE PROPERTY LOCATED AT 5945 DUBLIN ROAD FOR THE IMPROVEMENTS OF A MULTI-USE PATH AS PART OF THE DUBLIN ROAD SOUTH PHASE 3 PROJECT.

WHEREAS, the City of Dublin (the "City") is preparing to construct a multi-use path along Dublin Road (the "Project"); and

WHEREAS, said Project requires that the City obtain a permanent storm sewer easement within Franklin County Parcel No. 270-000400 owned by Jack M. McKitrick and Sue E. McKitrick (the "Grantors"), said property interest more fully described in the Exhibit labeled "A" and depicted in the Exhibit labeled "B," all attached hereto; and

WHEREAS, the City desires to receive as a donation from Jack M. McKitrick and Sue E. McKitrick a permanent storm sewer easement described in the attached Exhibit "A" and depicted in the attached Exhibit "B" located in the City of Dublin, County of Franklin, State of Ohio; and

WHEREAS, this donation will require Jack M. McKitrick and Sue E. McKitrick to execute a Grant of Easement to the City of Dublin without consideration or compensation.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Dublin, State of Ohio, _____ of the elected members concurring, that:

Section 1. The City Manager is hereby authorized to accept and receive a deed of easement for a permanent storm sewer easement related to the donation from Jack M. McKitrick and Sue E. McKitrick.

Section 2. This Ordinance shall take effect and be in force from and after the earliest date permitted by law.

Passed this _____ day of _____, 2014.

Mayor – Presiding Officer

ATTEST:

Clerk of Council

**PERPETUAL EASEMENT
FOR A STORM SEWER**

THIS PERPETUAL EASEMENT FOR A STORM SEWER (the "Easement") is made and entered into this ____ day of _____ 2014, by and between Jack M. McKittrick and Sue E. McKittrick ("Grantors"), whose mailing address is 5945 Dublin Road, Dublin, Ohio 43017, and the City of Dublin, Ohio, an Ohio municipal corporation ("Grantee"), whose mailing address is 5200 Emerald Parkway, Dublin, Ohio 43017.

BACKGROUND INFORMATION

WHEREAS, Grantors own the real property known as Franklin County Auditor's Parcel No. 270-000400 (the "Grantors' Property");

WHEREAS, Grantee desires to accept and receive as a donation a perpetual storm sewer easement over those portions of the Grantors' Property legally described on the attached Exhibit A and depicted on the attached Exhibit B (the "Easement Area") for the purpose of constructing and maintaining a storm sewer; and

WHEREAS, Grantors desire to donate a perpetual storm sewer easement over the Easement Area for the benefit of Grantee upon the terms and conditions set forth in this Easement.

STATEMENT OF AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree to the foregoing Background Information and as follows:

1. **Grant of Perpetual Easement.** Grantors donate and grant to Grantee, its agents, employees, independent contractors, and successors and assigns, a perpetual, non-exclusive easement in, through, over and under the Easement Area for the following purposes: (i) to construct lines, conduits, valves, regulators and all other appurtenances necessary, in Grantee's sole discretion, for the operation of storm sewer and drainage facilities within the Easement Area (collectively "Facilities"); (ii) to add to, operate, maintain, repair, replace or remove any Facilities; and (iii) of ingress and egress over those portions of Grantor's Property reasonably necessary to facilitate Grantee's use of the Easement Area. Grantee, as soon as reasonably practicable after installation of the storm sewer, including any alterations and repairs thereto, and completion of the grading work shall cause the Easement Area to be restored to its former condition as nearly as is reasonably practicable. Grantee shall have the right to remove any and all vegetation growing within the Easement Area as is reasonably necessary to facilitate Grantee's use thereof as permitted by this Easement. Grantors have the right to enter on the Easement Area for any purpose whatsoever provided such entry by Grantors does not in any way impair or hinder the rights granted to Grantee in this Easement.

2. **Relationship of Parties.** Nothing contained herein shall be deemed or construed by the parties or by any third party as creating the relationship of principal and agent, of partnership or of joint venture between the parties, it being understood and agreed that no provision contained herein or any act of the parties hereto shall be deemed to create any relationship other than grantors and grantee of the rights and easements set forth herein.

3. Waiver. Except to the extent that a party may have otherwise agreed in writing, no waiver by such party of any breach of the other party of any of its obligations, agreements, or covenants hereunder shall be deemed to be a waiver of any subsequent breach of the same or of any other covenants, agreements or obligations, nor shall any forbearance by a party to seek a remedy for any breach by the other party be deemed a waiver of any rights or remedies with respect to such breach or any similar breach in the future.

4. Severability. In the event any provision of this Easement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

5. Captions and Pronoun Usage. The captions and section numbers in this Easement are for convenience only and shall not be deemed to be a part hereof. The pronouns used herein shall be considered as meaning the person, number, and gender appropriate under the circumstances at any given time.

6. Governing Law. This Easement shall be governed by and construed in accordance with the laws of the State of Ohio.

7. Modification. This Easement, or any easement or covenant set forth herein, may not be amended, terminated, rescinded or otherwise modified, in whole or in part, except by a written instrument executed by the parties hereto and recorded with the Recorder's Office, Franklin County, Ohio with reference made to this Easement.

8. Benefit. This Easement shall run with the land and inure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, representatives, successors and assigns.

9. Authority. Grantors represent and warrant that they have the full right and authority to enter into this Easement and grant the rights hereby conveyed to Grantee.

IN WITNESS WHEREOF, the parties hereto have set their hands as of the date set forth above.

GRANTORS:

GRANTEE:

Jack M. McKittrick

City of Dublin, Ohio, an Ohio Municipal Corporation

Sue E. McKittrick

Marsha I. Grigsby, City Manager

{ACKNOWLEDGEMENTS ON THE FOLLOWING PAGE}

STATE OF OHIO)
)ss.
FRANKLIN COUNTY)

BE IT REMEMBERED, that on this ____ day of _____, 2014, before me, the subscriber, a Notary Public in and for said county and state, personally came Marsha I. Grigsby, City Manager of the City of Dublin, Ohio, an Ohio municipal corporation, who acknowledged the signing thereof to be her free act and deed for and on behalf of the municipal corporation.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.

Notary Public

STATE OF OHIO)
)ss.
FRANKLIN COUNTY)

BE IT REMEMBERED, that on this ____ day of _____, 2014, before me, the subscriber, a Notary Public in and for said county and state, personally came Jack M. McKitrick, Co-Grantor, who acknowledged the signing thereof to be his free act and deed for the purpose stated therein.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.

Notary Public

STATE OF OHIO)
)ss.
FRANKLIN COUNTY)

BE IT REMEMBERED, that on this ____ day of _____, 2014, before me, the subscriber, a Notary Public in and for said county and state, personally came Sue E. McKitrick, Co-Grantor, who acknowledged the signing thereof to be her free act and deed for the purpose stated therein.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.

Notary Public

This Instrument Prepared By:
Philip K. Hartmann
Frost Brown Todd LLC
One Columbus
10 West Broad Street
Columbus, Ohio 43215

EXHIBIT A

CIP 1 of 1
PARCEL 08-009
PROJECT 24-P
Version Date DUBLIN MUP 04/21/14

**PARCEL 24-P
DUBLIN ROAD SOUTH MULTI-USE PATH
PERPETUAL EASEMENT
FOR A STORM SEWER**

Situate in the State of Ohio, County of Franklin, City of Dublin, located in Virginia Military Survey 2419, being a part of Lot 4 LEPPERT SUBDIVISION as recorded in Plat Book 27, Page 13, as conveyed to Jack M. and Sue E. McKittrick, by deed of record in Official Record 4705 G14, records of the Recorder's Office, Franklin County, Ohio, and being more particularly described as follows:

Beginning for Reference at the southeast corner of said Lot 4 in the existing westerly right-of-way line of Dublin Road, being 40.00 feet left of centerline station 147+69.39;

Thence North 05 deg. 26 min. 35 sec. East, a distance of 39.49 feet along the easterly line of said Lot 4, and along the existing westerly right-of-way line of Dublin Road, to a point being 40.00 feet left of centerline station 148+08.88, and being the **Point of True Beginning**;

Thence North 84 deg. 33 min. 25 sec. West, a distance of 10.00 feet across said Lot 4 to a point being 50.00 feet left of centerline station 148+08.88;

Thence North 05 deg. 26 min. 35 sec. East, a distance of 10.00 feet across said Lot 4 to a point being 50.00 feet left of centerline station 148+18.88;

Thence South 84 deg. 33 min. 25 sec. East, a distance of 10.00 feet, across said Lot 4 to a point in the easterly line of said Lot 4 in the existing westerly right-of-way line of Dublin Road, being 40.00 feet left of centerline station 148+18.88;

Thence South 05 deg. 26 min. 35 sec. West, a distance of 10.00 feet, along the easterly line of said Lot 4, and along the existing westerly right-of-way line of Dublin Road to the **Point of True Beginning**, containing 0.002 acres, more or less.

Of the above described area, 0.002 acres are contained within Franklin County Auditor's Parcel 270-000400.

Bearings are based on the Ohio State Plane Coordinate System, South Zone, NAD 83 (86), as established from a GPS survey in 2008, occupying Franklin County Geodetic Control Monuments "FRANK 73" and "FCGS 6642 RESET".

This description was prepared by Steven E. Rader, registered surveyor 7191, and is based upon a field survey for the City of Dublin, Ohio, in 2008 by Stantec Consulting Services, Inc., under the direction of said surveyor.

Grantor claims title by the instrument of record in Official Record 4705 G14, of the Recorder's Office, Franklin County, Ohio.

A drawing of this description is attached hereto and made part thereof.

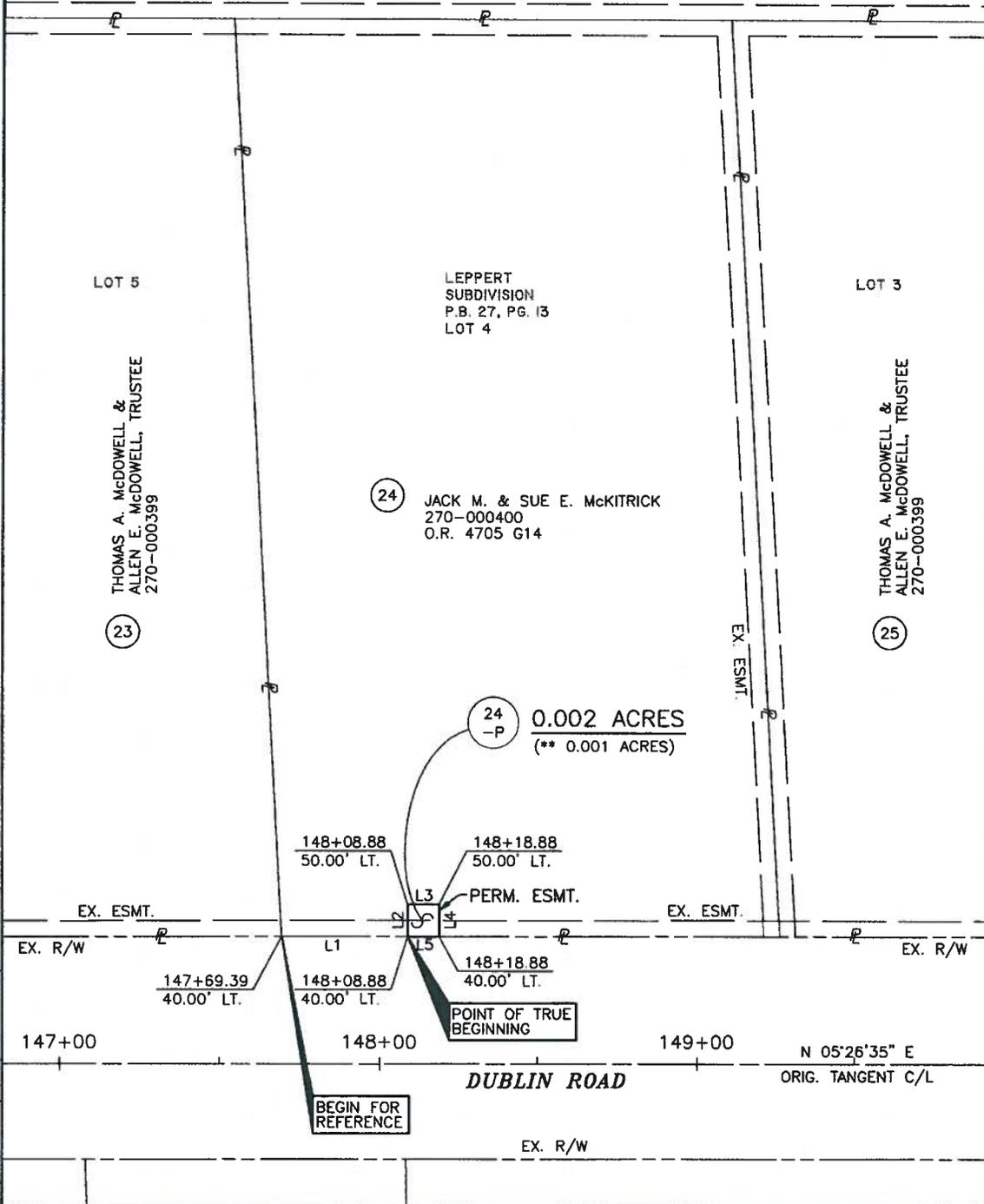


STANTEC CONSULTING SERVICES, INC.

Steven E. Rader 4/21/14
Registered Surveyor No. 7191 Date

** PORTION OF THE PROPOSED EASEMENT
LYING WITHIN AN EXISTING EASEMENT

EXHIBIT B



DATE: 04/21/2014 1:54 PM

NUMBER	DIRECTION	DISTANCE
L1	N 05°26'35" E	39.49'
L2	N 84°33'25" W	10.00'
L3	N 05°26'35" E	10.00'
L4	S 84°33'25" E	10.00'
L5	S 05°26'35" W	10.00'

- MONUMENT LEGEND**
- ⊠ R.R.S. FOUND
 - REBAR FOUND
 - IRON PIN FOUND
 - ⊠ MONUMENT BOX
 - 3/4" IRON PIN SET

PARCEL 24-P
DUBLIN ROAD SOUTH
MULTI-USE PATH
WASHINGTON TWP., FRANKLIN COUNTY, OHIO

0 40 80
SCALE IN FEET
Prepared By

BASIS OF BEARINGS
THE PROJECT BEARING DATUM IS BASED UPON STATE PLANE GRID BEARINGS FROM THE OHIO COORDINATE SYSTEM, SOUTH ZONE, NAD 83 (86), AS MEASURED USING G.P.S. METHODS THROUGH THE FRANKLIN COUNTY ENGINEER'S STATIONS "FRANK 73", AND "FCGS 6642 RESET".



Stantec Consulting Services, Inc.
1500 Lake Shore Drive, Suite 100
Columbus, Ohio 43204
Phone: (614) 486-4383

Steve E. Rader 4/21/14
Registered Surveyor #7191 Date

THOMAS A. McDOWELL AND ALLEN E. McDOWELL TRUSTEES
 CLIENT DATA
 ADDRESS: 47104.78
 A - 00746427 RT.
 De - 0108457
 R - 5000.00
 T - 34.03
 L - 68.05
 E.C. STA. 47104.78
 P.T. STA. 4722.81

PROPOSED GRADE	EXISTING GRADE	STATION	PROPOSED GRADE	EXISTING GRADE	STATION
822.21	822.19	46+00	822.21	822.19	46+00
821.14	820.81		821.14	820.81	
820.34	820.24		820.34	820.24	
819.92	819.82		819.92	819.82	
819.76	818.80		819.76	818.80	
819.82	819.12		819.82	819.12	
819.47	819.59		819.47	819.59	
819.32	819.84		819.32	819.84	
819.18	819.97		819.18	819.97	
819.03	819.51		819.03	819.51	
818.92	819.23		818.92	819.23	
818.94	818.75		818.94	818.75	
819.09	818.75		819.09	818.75	
819.28	818.89		819.28	818.89	
819.47	819.07		819.47	819.07	
819.65	819.39		819.65	819.39	
819.84	819.71		819.84	819.71	
820.00	819.89		820.00	819.89	
819.96	819.60		819.96	819.60	
819.80	820.01		819.80	820.01	
819.64	820.77		819.64	820.77	
819.49	820.38		819.49	820.38	
819.33	820.82		819.33	820.82	
819.03	819.65		819.03	819.65	
818.55	819.00		818.55	819.00	
817.92	818.31		817.92	818.31	
817.92	818.31	51+00	817.92	818.31	51+00

FOR DRAINAGE DETAILS, SEE SHEET 43
 FOR GRADING PLAN, SEE SHEET 56
 FOR TREE PRESERVATION PLAN, SEE SHEET 62
 FOR TRAFFIC CONTROL PLAN, SEE SHEET 67

RELOCATED STONE WALL

8000 B-test - SOIL BORING
 P-test - TEST PIT
 R - REMOVE AND DELIVER TO THE OWNER
 RR - REMOVE AND RELOCATE
 RR - REMOVE AND RESET
 DND - DO NOT DISTURB
 A/C - ADJUST TO GRADE
 * - PER RECORD PLAN, CONTRACTOR TO LOCATE
 C/M/W - CONSTRUCTION MATERIAL W/ASSIGNMENT
 DRN. ESMT - DRAINAGE ELEMENT
 I/V - INGRESS/EGRESS ELEMENT

