

ORDINANCE NO. 77-21

AN ORDINANCE AUTHORIZING THE MAYOR TO ACCEPT ONE (1) EASEMENT NECESSARY FOR THE NORTH BROADWAY STREET BRIDGE REPLACEMENT PROJECT.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEDINA, OHIO:

- SEC. 1:** That the Mayor is hereby authorized to accept one (1) Easement necessary for the North Broadway Street Bridge Replacement Project.
- SEC. 2:** That the Easement marked Exhibit A, attached hereto and incorporated herein, is on the property located at 400 and 424 North Broadway St., Permanent Parcel No. 028-19B-14-061 and No. 028-19B-14-062, part of Medina City Lots 508 and 517.
- SEC. 3:** That the funds to cover this easement, in the amount of \$11,741.60 are available in Account No. 108-0610-54411.
- SEC. 4:** That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law.
- SEC. 5:** That this Ordinance shall be in full force and effect at the earliest period allowed by law.

PASSED: May 10, 2021

SIGNED: John M. Coyne, III
President of Council

ATTEST: Kathy Patton
Clerk of Council

APPROVED: May 11, 2021

SIGNED: Dennis Hanwell
Mayor

Effective date – June 9, 2021

ORD 99-21
EXH. A

Sanitary Sewer, Storm Sewer and Drainage Easement

KNOW ALL MEN BY THESE PRESENTS:

That in consideration of (ELEVEN THOUSAND SEVEN HUNDRED FORTY-ONE and 60/100) Dollars (\$11,741.60) and other good and valuable consideration recited herein given to ST. MATTHEW EVANGELICAL LUTHERAN CHURCH OF MEDINA OHIO, INC. hereinafter "Grantor(s)" by the CITY OF MEDINA, Ohio, hereinafter "Grantee", the receipt of which is hereby acknowledged, the Grantor does hereby grant, bargain, sell, transfer and convey unto the Grantee, its successors and assigns, a sanitary sewer, storm sewer and drainage easement for the purpose of erecting, constructing, installing and thereafter using, operating, inspecting, maintaining, repairing, replacing or removing a PERPETUAL WATERCOURSE WITH A STORM SEWER AND APPURTENANCES AND A SANITARY SEWER under, across, and through certain land of the Grantor(s) situated in the City of Medina, County of Medina and State of Ohio and more particularly described as follows:

Situated in the City of Medina, County of Medina, State of Ohio and being known as parts of Medina City Lot Nos. (MCL) 508 and 517 and part of lands conveyed to St. Matthew Evangelical Lutheran Church of Medina, Ohio by deed dated January 27, 2004 as recorded in Document No. 2004OR003918 of the Medina County Recorder's Records, further bounded and described as follows:

Commencing at the Southwest corner of said MCL 517, also being the intersection of the Northern Right-of-Way of Pearl Street with the Eastern Right-of-Way of North Broadway;

Thence along the Western line of said MCL 517 and the Eastern Right-of-Way of North Broadway, bearing North 00°20'59" West, a distance of 162.92 feet to a point thereon and the TRUE PLACE OF BEGINNING of the easement area herein described;

Thence continuing along the Eastern Right-of-Way of North Broadway, bearing North 00°20'59" West, a distance of 71.61 feet to a point thereon, also being the Western line of aforesaid MCL 508;

Thence, bearing South 57°55'07" East, a distance of 50.00 feet to a point;

Thence, bearing South 26°00'43" West, a distance of 50.00 feet to a point;

Thence perpendicular to the Western line of aforesaid MCL 517 and the Eastern Right-of-Way of North Broadway, bearing South 89°39'01" West, a distance of 20.00 feet to a point on the Western line of said MCL 517 and the Eastern Right-of-Way of North Broadway and the TRUE PLACE OF BEGINNING containing 0.0450 acres of land, more or less but subject to all legal highways and all covenants and agreements of record.

Bearings are based on an assumed meridian and are used herein to indicate angles only.

This legal description was prepared based on a survey by and/or under the supervision of Douglas S. Jewel P.S. # S-8007 by Cunningham & Associates, Inc. in December 2020.

together with the right of reasonable ingress and egress over the immediately adjacent lands of the Grantor(s) for the purpose and use of said easement. The Grantee covenants and agrees that it will not use said easement for public right-of-way purposes.

As additional consideration for this easement and right-of-way, the Grantee covenants and agrees as follows:

1. Grantee shall repair any and all damage arising from the installation or subsequent repair, maintenance or reconstruction of a PERPETUAL WATERCOURSE, STORM SEWER AND APPURTENANCES AND SANITARY SEWER.
2. Grantee shall replace any driveway, lawn, shrubbery, or other improvement which may be damaged as a result of construction.
3. Within a reasonable time after completion of construction, and in no event later than forty-five (45) days, Grantee will return the ground to its original condition.
4. Grantee will secure and protect all permanent structures within the construction zone.
5. Grantee will pay for all costs of surveying, recording of documents, filing and transfer fees, escrow costs and title expenses, if any.

Grantor(s) covenant and agrees as follows:

1. Grantor will not install, erect or maintain any structure, fixture or device upon the easement which could in any way interfere with Grantee's use of the easement and right-of-way; however, Grantor retains the right to use the surface of the easement area provided said use does not interfere with the uses granted to Grantee.
2. Authorize the City of Medina, its Engineer, and all other officials, assistants, employees, agents and contractors thereof to enter upon the properties designated as 400 and 424 North Broadway; Permanent Parcel No. 028-19B-14-061 and 028-19B-14-062, part of Medina City Lots 508 and 517 with the necessary equipment to remove any obstructions as necessary to allow for the installation of the proposed sanitary sewer, culvert, headwall and rock rip rap including any trees, tree stumps, brush, vegetation, and landscaping; to complete grading to establish the watercourse; to install the proposed headwall, appurtenances and rock channel protection; to remove a portion of the existing asphalt driveway and to replace it in kind with asphalt; to install a new sanitary sewer and appurtenances; to complete grading as necessary; to restore the affected areas with topsoil, seed, fertilizer, and mulch in accordance with the plans and/or specifications as prepared by the City of Medina or its agents during the period of time commencing with the breaking of ground for the above described proposed work and terminating when the work has been completed and/or accepted by the City; and
3. Release the City of Medina, its Engineer, and all other officials, assistants, employees, agents and contractors thereof, from claims of damage, of compensation by reason of the above described work as called for by the said plans and/or specifications provided that the property designated as 400 and 424 North Broadway; Permanent Parcel No. 028-19B-14-061 and 028-19B-14-062, part of Medina City Lots 508 and 517 is restored to the condition before construction or as close as reasonably possible in conformance with the plans and/or specifications and/or proposed work described above.

All the terms and conditions of this Easement and Right-of-way shall be binding upon and inure to the benefit of the Grantor(s), the Grantee, their heirs, executors, administrator, successors and assigns.

The grant of this Easement and Right-of-way shall constitute a covenant running with the land for the benefit of the Grantee, its successors and assigns.

IN WITNESS WHEREOF, the undersigned have executed this instrument this 20th day of APRIL, 2021.

Grantor: St. Matthew Evangelical Lutheran Church of Medina Ohio

Signature: Rex R. Rickly

Print Name: REX R. RICKLY

Title: PRESIDENT, EXECUTIVE COUNCIL

Company: St. Matthew Evangelical Lutheran Church of Medina Ohio Inc.

State of Ohio)
County of Medina) SS:

Before me, a Notary Public, in and for said County and State, personally appeared the Grantor, Rex Rickly, who acknowledged that he/she/they did sign the foregoing instrument and that the same is his/her/their free act and deed.

In testimony whereof, I have set my hand and official seal at Medina, Ohio, this 20 day of April, 2021.

Notary Signature: [Signature]

Print Name: TROY GERSPACHER

My Commission Expires: 4-27-24

Notary Seal:



TROY GERSPACHER
NOTARY PUBLIC
FOR THE
STATE OF OHIO
My Commission Expires
April 27, 2024

This instrument was prepared by:
Gregory Huber, Law Director
City of Medina, Ohio
132 N. Elmwood Avenue
Medina, OH 44256



Cunningham & Associates, Inc.

Civil Engineering & Surveying
203 W. Liberty St., Medina, Oh 44256
Phone: (330) 725-5980 * Fax (330) 725-8019

Legal Description for a 0.0450 Acre Easement Area
Project No. 20-116
December 7, 2020

Situated in the City of Medina, County of Medina, State of Ohio and being known as parts of Medina City Lot Nos. (MCL) 508 and 517 and part of lands conveyed to St. Matthew Evangelical Lutheran Church of Medina, Ohio by deed dated January 27, 2004 as recorded in Document No. 2004OR003918 of the Medina County Recorder's Records, further bounded and described as follows:

Commencing at the Southwest corner of said MCL 517, also being the intersection of the Northern Right-of-Way of Pearl Street with the Eastern Right-of-Way of North Broadway;

Thence along the Western line of said MCL 517 and the Eastern Right-of-Way of North Broadway, bearing North $00^{\circ}20'59''$ West, a distance of 162.92 feet to a point thereon and the TRUE PLACE OF BEGINNING of the easement area herein described;

Thence continuing along the Eastern Right-of-Way of North Broadway, bearing North $00^{\circ}20'59''$ West, a distance of 71.61 feet to a point thereon, also being the Western line of aforesaid MCL 508;

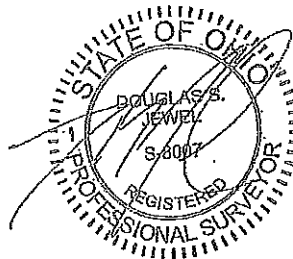
Thence, bearing South $57^{\circ}55'07''$ East, a distance of 50.00 feet to a point;

Thence, bearing South $26^{\circ}00'43''$ West, a distance of 50.00 feet to a point;

Thence perpendicular to the Western line of aforesaid MCL 517 and the Eastern Right-of-Way of North Broadway, bearing South $89^{\circ}39'01''$ West, a distance of 20.00 feet to a point on the Western line of said MCL 517 and the Eastern Right-of-Way of North Broadway and the TRUE PLACE OF BEGINNING containing 0.0450 Acres of land, more or less but subject to all legal highways and all covenants and agreements of record.

Bearings are based on an assumed meridian and are used herein to indicate angles only.

This legal description was prepared based on a survey by and/or under the supervision of Douglas S. Jewel P.S. # S-8007 by Cunningham & Associates, Inc. in December 2020.



PEARL ST.

N. BROADWAY 99' R/W

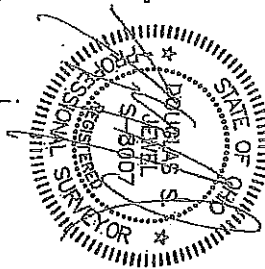
ST MATTHEW EVANGELICAL
LUTHERAN CHURCH OF
MEDINA OHIO INC
DOC. NO. 2004OR003918
2004/01/27
PART OF MCL 517

ST MATTHEW EVANGELICAL
LUTHERAN CHURCH OF
MEDINA OHIO INC
DOC. NO. 2004OR003918
2004/01/27
MCL 508

ST MATTHEW EVANGELICAL
LUTHERAN CHURCH OF
MEDINA OHIO INC
DOC. NO. 2006OR005694
2006/02/24
MCL 507

PROPOSED
EASEMENT AREA
0.0450 AC.

SITUATED IN THE CITY
OF MEDINA, COUNTY
OF MEDINA, STATE OF
OHIO AND BEING
KNOWN AS PART OF
ORIGINAL MEDINA
CITY LOT 508 & 517



Scale: 1" = 40'
BEARINGS ARE TO AN ASSUMED MERIDIAN
AND ARE USED TO DENOTE ANGLES ONLY.

LOCATED IN:
CITY OF MEDINA
COUNTY OF MEDINA
STATE OF OHIO

EXHIBIT B

CUNNINGHAM & ASSOCIATES, INC.
CIVIL ENGINEERING and SURVEYING
203 W. LIBERTY ST., MEDINA, OHIO 44256 330-723-5980

DRAWN BY
DATE 11/24/2020
PROJECT NO.
20-116

ACQUAINTANCE
KEL JOHNSON
SHEET NO.

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