

ORDINANCE NO. 2009 - 30

**AUTHORIZING THE CITY MANAGER TO EXECUTE A UTILITY EASEMENT ON CERTAIN REAL PROPERTY LOCATED AT 142 MASON-MONTGOMERY ROAD, IN THE CITY OF MASON AND DECLARING AN EMERGENCY**

WHEREAS, the City of Mason and Betty Jane Westerkamm have reached an agreement as to the dedication of certain easement property located north of Foxfield Drive, east of Mason-Montgomery Road.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Mason, Ohio, six members elected thereto concurring:


Section 1. That the City Manager is hereby authorized to execute a Utility Easement Deed from Betty Jane Westerkamm across certain property located at 142 Mason-Montgomery Road, Mason, Ohio 45040, which property is more particularly described in Exhibit "A", attached hereto and incorporated herein by reference, and that the City Manager is authorized to accept the easements and execute any and all documents necessary to complete the acquisition.

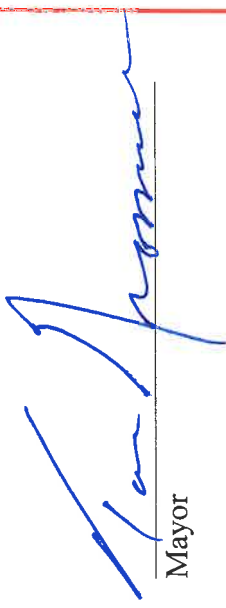
Section 2. That the consideration for the easement obtained from Betty Jane Westerkamm is One Dollar (\$1.00).

Section 3. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and general welfare and shall be effective immediately upon its passage. The reason for said declaration of emergency is the need to execute the Deed at the earliest possible time.

Passed this 13<sup>th</sup> day of April, 2009

Attest:

  
Clerk of Council

  
Mayor

Parcel no. 16-30-351-0080

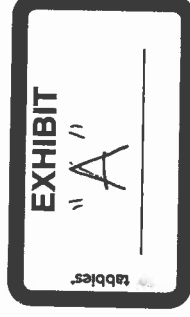
**DEED/GRANT OF UTILITY EASEMENT**

**KNOW ALL MEN BY THESE PRESENTS:**

THAT **Betty Jane Westerkamm, unmarried**, (Grantor), the Fee Simple owner of the real estate (the Property), located at 142 Mason-Montgomery Road, Mason, Ohio 45040 within the City of Mason, Ohio, Warren County, Ohio, identified in Official Record Book 2247, Page 581 of the Records of Warren County, Ohio, for and in consideration of the sum of One Dollar (\$1.00) and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, do hereby grant, bargain, sell, convey and release to the **CITY OF MASON, OHIO**, an Ohio municipal corporation, whose mailing address is 6000 Mason-Montgomery Road, Mason, Ohio 45040 (Grantee), and to their agents, employees, successors and assigns forever, a **non-exclusive, perpetual easement** for the construction, operation, patrol, repair, replacement, relocation, maintenance, and operation of underground utilities, including: wires, cables, lines, manholes, pullboxes, grounding systems, and conduits, and the necessary attachments in connection therewith; for the transmission of electric, telephone, and other utilities; and also the right of ingress to and egress from said easement, thereto on, above, under and through that portion of the aforementioned Property, as described on Exhibit "A" (the "Easement Area") and with the easement area being generally depicted on Exhibit "B", attached hereto and made a part hereof. The above utility easements are for the benefit of all public utility service providers including, but not limited to Duke Energy, Embarq, Cincinnati Bell, Time Warner Cable, and the City of Mason, Ohio.

All costs and expenses associated with the Grantee's construction, operation, maintenance, repair, replacement and restoration activities within the Easement Area described on Exhibit A shall be borne solely by the Grantee.

The consideration mentioned herein includes total compensation for all damages caused by said construction, repair, maintenance, operation and inspection within the above described easement. Grantee shall, as soon as practical after the completion of any construction, maintenance, repair or replacement activities, restore the surface of the Easement Area to the same condition or better as existed immediately prior to the commencement of such activities by Grantee or its agents, employees or contractors.



Grantor shall not construct any improvement within or upon the Easement Area or otherwise use the Easement Area in a manner that would materially interfere with the exercise by Grantee of its rights provided by this document.

The terms and agreement set forth herein shall be deemed to be covenants running with the land and shall inure to the benefit of and be binding upon, as the case may be, the parties and their respective successors and assigns.

Grantor, for itself and for its successors and assigns, does hereby COVENANT with the said Grantee, its successors and assigns, that it is the true and lawful owner of the said premises, has full power to convey said easement.

It is agreed that wherever a party is named in this instrument there shall be intended and included, in each case, that party, its successors, and assigns.

Executed by Betty Jean Westerkamm, who has hereunto set her hand, this 9<sup>th</sup> day of April, 2009.

Betty Jean Westerkamm  
Betty Jean Westerkamm

STATE OF OHIO )  
 ) SS:  
COUNTY OF Wasson )

BE IT REMEMBERED that on this 9<sup>th</sup> day of April, 2009, before me, the subscriber, a Notary Public in and for said County and State, personally came Betty Jean Westerkamm, who executed the foregoing instrument, who acknowledged that they did sign said instrument and that said instrument was signed as their free act and deed.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my notarial seal on the day and year first above written.

Joan Bernard  
Notary Public

JOAN BERNARD  
Notary Public, State of Ohio  
My Commission Expires May 7, 2010



Exhibit A

6900 Tylersville Road, Suite A  
Mason, Ohio 45040  
P 513.336.6600  
F 513.336.9365  
[www.bayerbecker.com](http://www.bayerbecker.com)

April 7, 2009

DESCRIPTION

Utility Easement

LOCATION

Westerkamm Property

Situated in Section 30, Town 4, Range 2, City of Mason, Warren County, Ohio and being a 0.0290 acre Utility Easement in part of the lands of Betty Westerkamm as recorded in Official Record 1855, Page 209 of the Warren County, Ohio records and being further described as follows:

Beginning at a point found by measuring from the intersection of the centerline of Mason Montgomery Road and the northerly right-of-way line of Foxfield Drive as dedicated on Community Campus, Section One as recorded in Plat Book 60, Page 40 of the Warren County, Ohio records, said point being on the southerly line of the aforementioned lands of Betty Westerkamm, along said northerly right-of-way line, South 88°18'45" East, 50.54 feet to a point on the easterly right-of-way line of Mason Montgomery Road and the true point of beginning;

thence from the point of beginning thus found, leaving said northerly right-of-way line,

along said easterly right-of-way line, North 03°59'43" East, 10.11 feet;

thence leaving said easterly right-of-way line, South 85°59'38" East, 249.80 feet to a

point on the aforementioned northerly right-of-way line of Foxfield Drive;

thence along said northerly right-of-way line, North 88°18'45" West, 250.00 feet to the

true point of beginning containing 1263.30 square feet or 0.0290 acres of land

subject to all easements and rights of way of record.

CIVIL & TRANSPORTATION ENGINEERING

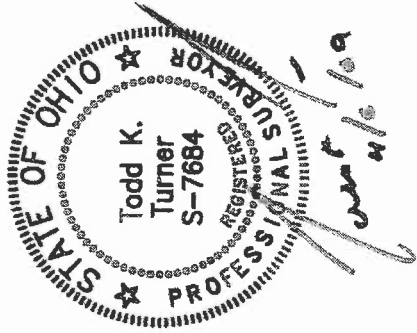
LANDSCAPE ARCHITECTURE

PLANNING

SURVEYING

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Exhibit B



Betty Westerkamm  
21.232 Ac.  
O.R. 1855, Pg. 209

0.0290 Acre  
Utility Base.

Ex. R/W

N03°59'43"E  
10.11'

50.54'

S88°18'45"E

S85°59'38"E 249.80'  
N88°18'45"W 250.00'

R/W  
VARIES

FOXFIELD DRIVE

R/W Dedicated with  
Community Campus  
Section One  
P.B. 60, Pg. 40

P.O.B.

MASON MONTGOMERY ROAD

City of Mason  
17.472 Acres  
Parcel 3 (SR 115-24)  
OR 2270, Pg. 374



NOTE:

"This plat is prepared for easement acquisition purposes only and does not meet the minimum standards for a boundary survey."

Drawing: 08C053.000 RP

Scale: 1"=50'

Drawn by: T.K.T., P.S.

Checked By: XXX

Issue Date: 04/07/09

UTILITY EASEMENT

WESTERKAMM PROPERTY  
SECTION 30, TOWN 4, RANGE 2  
CITY OF MASON  
WARREN COUNTY, OHIO

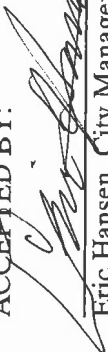
EASEMENT EXHIBIT



6900 Tylersville Road, Suite A  
Mason, OH 45040 - 513.336.6600

CITY OF MASON, OHIO


ACCEPTED BY:

  
Eric Hansen, City Manager


STATE OF OHIO )  
 ) SS:  
COUNTY OF WARREN )

BE IT REMEMBERED that on this 9 day of APRIL, 2009, before me, the subscriber, a Notary Public in and for said County and State, personally came Eric Hansen, City Manager of the City of Mason, Ohio, who executed the foregoing instrument on behalf of said municipal corporation, who acknowledged that he did sign said instrument and that said instrument was signed as his free act and deed and as duly authorized.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my notarial seal on the day and year first above written.

  
Notary Public  
My commission expires:            **JOAN BERNARD**  
**Notary Public, State of Ohio**  
**My Commission Expires May 7, 2010**

APPROVED AS TO FORM AND EXECUTION:

  
Law Director

Prepared by: Wood & Lamping, LLP

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