

GRANTING AN EASEMENT FOR FIBER OPTICS AND ELECTRIC SERVICES FROM THE CITY OF TALLMADGE TO SUMMIT COUNTY, AS A PART OF 89 EAST HOWE ROAD, PPN 6010569 AND PROVIDING FOR IMMEDIATE ENACTMENT

WHEREAS, the City of Tallmadge intends to grant a ten (10) feet wide easement extending north from the current road right-of-way line across the entire frontage of East Howe Road as part of 89 East Howe Road, PPN 6010569 for fiber optics and electric services to Summit County; and

WHEREAS, this Council deems that this easement serves the interest of the City and its citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TALLMADGE, COUNTIES OF SUMMIT AND PORTAGE, STATE OF OHIO:

SECTION 1. That the Mayor is hereby authorized to enter into the Easement Agreement, attached and incorporated herein as Exhibit A, with the County of Summit for fiber optics and electric services.

SECTION 2. That the recording of said easement shall be made by Summit County and all costs associated therewith shall be paid by Summit County.

SECTION 3. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees on or after November 28, 1975 that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION 4. That this ordinance is necessary to provide for and to accomplish the purposes herein set forth, which are conducive to the health, safety, and welfare of the citizens of Tallmadge. For that reason, provided this ordinance shall receive the affirmative vote of three-fourths of the members of Council and approval by the Mayor, it shall be enacted immediately and shall be of immediate effect.

Passed: \_\_\_\_\_

\_\_\_\_\_  
Susan E. Burton, Clerk of Council  
MER/jt  
7/5/23  
Filed with the Mayor \_\_\_\_\_

\_\_\_\_\_  
Dennis K. Loughry, President of Council

Approved:

\_\_\_\_\_  
David G. Kline, Mayor

This \_\_\_\_\_ day of \_\_\_\_\_, 2023

Committee Assignment: \_\_\_\_\_

Readings: 1st \_\_\_\_\_ 2d \_\_\_\_\_ 3d \_\_\_\_\_

For: \_\_\_\_\_ Against: \_\_\_\_\_ Abstain: \_\_\_\_\_

Note: \_\_\_\_\_



## **EASEMENT AGREEMENT**

**THIS EASEMENT AGREEMENT** (“Easement”) is made effective as of the date signed, by and between the City of Tallmadge, Ohio (the “City”), an Ohio political subdivision, with its principal place of business at 46 North Avenue, Tallmadge, OH 44278 and the County of Summit (the “County”), an Ohio political subdivision, with its principal place of business at 175 South Main St., 8th Floor, Akron, Ohio 44308.

The City is the owner of land identified as 89 East Howe Rd., Tallmadge, Ohio, and in the Summit County Fiscal Office Records as Permanent Parcel Number 60-10569 (the “Property”). The City, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby grant to the County a non-exclusive, permanent and perpetual easement described as follows, subject to the terms stated herein:

Being a strip of land ten (10) feet wide extending north from the current road right-of-way line across the entire frontage of the Property along East Howe Road as shown on County of Summit land records and as generally depicted in the attached Exhibit 1.

The parties agree to the following conditions with respect to usage of the land under this Easement.

- 1) The County may use the Easement for the installation and maintenance of fiber optic cable and conduits, and electric service lines. No other utilities may be placed in the Easement by the County without express written authorization of the City or its successors.
- 2) It is understood by the parties that electric service lines placed in the Easement may service the adjacent properties that are owned by the County. Should the County transfer or sell either or both of those properties, the benefit of this Easement shall inhere to the successors or assigns for continued electric service and usage of the fiber optic cables, subject to the terms stated herein.
- 3) The City, or its successors or assigns of the Property, may not build or place any buildings or structures within the Easement without express written authorization of the County. The City shall notify the County if it intends to perform any work within the Easement that could disturb or damage the County’s fiber optic or electric lines. The County shall notify the City if it intends to perform any work within the Easement that could disturb or damage the City’s fiber optic lines.
- 4) The County agrees to remediate at its own cost and expense any land, driveways, features, or landscaping that are disturbed or damaged due to the County’s construction or maintenance activities within the Easement.
- 5) Should the fiber optic cables and conduit and electric service lines be removed or abandoned by the County for a period of more than two years without the County

notifying the City of its intent to resume such usage, this Easement shall terminate and revert to the City.

- 6) This Easement shall run with the land and be binding upon the successors, assigns and all subsequent owners of the Property.

Prior Instrument Reference: Doc. # 56771119, Recorded 10/3/2022

For the City of Tallmadge

\_\_\_\_\_  
Mayor David Kline

Executed in the presence of

State of Ohio            )  
                                  ) ss:  
County of Summit        )

SWORN TO BEFORE ME AND SUBSCRIBED, a Notary Public in and for said State and County, personally appeared Mayor David Kline of the City of Tallmadge, Ohio, who acknowledged signing the foregoing instrument by his own free act and deed on behalf of the City of Tallmadge, Ohio this \_\_\_\_ day of July, 2023.

\_\_\_\_\_  
Notary Public

For the County of Summit

Approved as to form:

\_\_\_\_\_  
Ilene Shapiro, County Executive

\_\_\_\_\_  
Deb Matz,  
Director of Law and Risk Management

This instrument was prepared by:  
County of Summit Department of Law  
Marvin D. Evans, Esq.  
175 S. Main St., Akron, Ohio 44308