

**COUNTY OF LEHIGH, PENNSYLVANIA  
COMMISSIONERS BILL 2016-03  
SPONSORED BY COMMISSIONER HOLT  
REQUESTED DATE: FEBRUARY 16, 2016  
ORDINANCE NO. 2016-**

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**AUTHORIZING THE NEGOTIATION AND APPROVAL OF A GRANT  
OF A PERPETUAL EASEMENT WITH LEHIGH COUNTY AUTHORITY  
PURSUANT TO HOME RULE CHARTER SECTION 310(a)6**

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**WHEREAS**, Lehigh County Authority ("Authority") desires to acquire a perpetual easement from Lehigh County (the "County") in, on, over, under, above and through those two (2) certain parcels, specifically PIN 548600785431-1 and PIN 548601161847-1, which the County owns in fee situate in the Township of South Whitehall, Lehigh County, Pennsylvania for the purpose of constructing, maintaining, operating, renewing, altering, inspecting, repairing, adding to, replacing or removing any improvements to its public water system facilities therein as occasion may require. A copy of the Easement Agreement, including a Plan depicting the easement area, is attached hereto as Exhibit "A" and made a part hereof; and

**WHEREAS**, Authority will pay the County One and xx/100 Dollars (\$1.00) for granting a perpetual easement for the purpose of constructing, maintaining, operating, renewing, altering, inspecting, repairing, adding to, replacing or removing any improvements to its public water system facilities therein as occasion may require; and

**WHEREAS**, a perpetual easement is necessary and required to complete the transaction; and

**WHEREAS**, Section 310(a)(6) of the Home Rule Charter of the County of Lehigh, Pennsylvania, provides that the conveyance of any County property shall require Ordinance approval.

**NOW, THEREFORE, IT IS HEREBY ENACTED AND ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF LEHIGH, PENNSYLVANIA, THAT:**

1. The above purpose clauses are incorporated herein by reference.
2. The proper officers and other personnel of Lehigh County are hereby authorized and empowered to negotiate and execute the Easement Agreement and any other ancillary documents that serve the purpose of this Ordinance in final recordable form, if applicable, and take all such further action, including any necessary transfers of funds, as they may deem appropriate to carry out the purpose of this Ordinance.
3. The County Executive shall distribute copies of this Ordinance to the proper officers and other personnel of Lehigh County whose further action is required to achieve the purpose of this Ordinance.
4. Any Ordinance or part of any Ordinance conflicting with the provisions of this Ordinance is hereby repealed insofar as the same affects this Ordinance.
5. This Ordinance shall become effective in ten (10) days after enactment.

**ADOPTED BY THE LEHIGH COUNTY BOARD OF COMMISSIONERS**

on this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by the following vote:

**Commissioners**

**AYE**

**NAY**

Geoff Brace  
Thomas C. Creighton, III  
Percy H. Dougherty  
Dan Hartzell  
Amanda Holt  
David S. Jones, Sr.  
Marty Nothstein  
Brad Osborne  
Michael P. Schware

ATTEST: \_\_\_\_\_  
Clerk to the Board of Commissioners

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
THOMAS S. MULLER  
County Executive

ENACTED this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

Prepared by:

Lehigh County Authority  
P.O. Box 3348, 1053 Spruce St.  
Allentown, PA 18106-0348  
(610) 398-2503

Return to:

Lehigh County Authority  
P.O. Box 3348, 1053 Spruce St.  
Allentown, PA 18106-0348  
(610) 398-2503

PINs: 548600785431-1 & 548601161847-1

*This Easement Agreement* is made this       day of       , 2016,  
by and between:

**COUNTY OF LEHIGH** ("Owner"), a political subdivision of the Commonwealth of Pennsylvania, having its principal office in the City of Allentown, Lehigh County, Pennsylvania, party of the first part;

**- AND -**

**LEHIGH COUNTY AUTHORITY** ("Authority"), a municipal authority organized and existing under the Pennsylvania Municipality Authorities Act with offices located in Lower Macungie Township, Lehigh County, Pennsylvania; and

**CITY OF ALLENTOWN** ("City"), a political subdivision of the Commonwealth of Pennsylvania, having its principal office in the City of Allentown, Lehigh County, Pennsylvania, both jointly parties of the second part;

**WHEREAS**, Owner owns a certain parcels of land in South Whitehall Township, Lehigh County, Pennsylvania, specifically parcels with Parcel Identification Number (PIN) 548600785431-1, that was conveyed to Owner pursuant to a deed recorded at Lehigh County Recorder of Deeds Deedbook ("Deedbook") 0011, Page 0109 and PIN 548601161847-1, that was conveyed to Owner pursuant to a deed recorded at Deedbook 1152, Page 1052 (the "Property"); and

**EXHIBIT**

A

**WHEREAS**, City obtained a permanent easement and right-of-way for certain of its public water system facilities, including a thirty-inch water pipeline, (the "Water System") in and across the above-referenced Owner lands via an eminent domain action filed as Condemnation Proceeding No. 13, September 1903 ("Existing Easement"); and

**WHEREAS**, the City and Authority entered into the *Allentown Water and Sewer Utility Concession and Lease Agreement* dated as of 1 May 2013 (the "Concession Agreement") pursuant to which the City leased the Water System (as defined therein) to the Authority, as Concessionaire, and granted the Authority the right to operate the System in order to provide utility services in accordance with the provisions of the Concession Agreement; and

**WHEREAS**, the transfer of responsibilities from the City to the Authority under the Concession Agreement occurred on August 8, 2013; and

**WHEREAS**, the Authority is going to construct certain improvements to the Water System ("the Water System Improvements"), as well as remove a wooden bridge in the vicinity, and requires an access easement both for this construction and for future access as more fully shown on Exhibit "1A", attached here to and made a part of this Agreement; and

**WHEREAS**, Owner is willing to grant to Authority, a perpetual easement allowing ingress and egress upon and across the Property to reach the Existing Easement, as shown on Exhibit "1A" as well as across parking lots and driveways on the Property between the easement shown on Exhibit "1A" and South Cedarbrook Road ("the Perpetual Easement"); and

**NOW, THEREFORE**, intending to be legally bound and for good and valuable consideration, the receipt of which is hereby acknowledged, Owner and Authority covenant and agree as follows:

1. Grant of the Perpetual Easement. The Authority will pay Owner the sum of One and <sup>00</sup>/<sub>100</sub> dollars (\$1.00) for granting a perpetual easement. Owner hereby irrevocably grants and conveys to Authority, its successors and assigns, a right-of-way and easement as identified in the recital clause and Exhibit "1A" allowing ingress and egress to, at any time and from time to time, construct, maintain, inspect, operate, repair, use and replace the Water System in the Existing Easement on the Property subject to the further terms and conditions of this Agreement.

2. Construction of the Water System Improvements. Authority shall construct the Water System Improvements at its sole cost and expense, using competent, responsible and qualified independent contractors and in accordance with sound engineering practices and all applicable governmental requirements. Although not a Water System Improvement, the Authority's contractor will also remove a wooden bridge and concrete crossing structure on the Property at the request of others; the Owner agrees with this work. The Water System Improvements shall be located and designed as shown on plans prepared by Authority engineers, as hereinafter provided. Owner understands and agrees that ingress and egress upon and across the Perpetual Easement is necessary to properly construct and install the Water System Improvements. The construction of the Water System Improvements shall not interfere with the Owner's use and enjoyment of the Property in that ingress and egress onto

the Property by Owner will always be maintained and the entry upon the Perpetual Easement will be only for reasonable and necessary construction, replacement, repair and maintenance of the Water System Improvements.

3. Preparing the Property. The vegetation within the Perpetual Easement may be removed at Authority and Authority Contractor's discretion.

4. Restoring the Property. Upon completion of construction, repair or replacement of the Water System Improvements, the Authority shall repair damage caused by the work, clean the site and generally leave the area within the Property in good condition as nearly as practicable to the original condition as existed before the work by Authority began. Owner's Director of Parks and Recreation will inspect the area, and he or she will approve the condition, and the Authority and/or Contractor agrees to pay One Hundred Fifty and <sup>00</sup>/<sub>100</sub> dollars (\$150.00) for this inspection service. It is understood that this restoration to preconstruction condition shall not include replacement of a wooden bridge and concrete crossing structure on the Property that are purposefully being permanently removed. The Authority and/or Contractor shall replace any of the mature trees identified in Exhibit B that are removed or die because of construction by planting for each tree lost a new 1½ to 2 inch caliber tree of a species and at a location determined by Owner's Director of Parks and Recreation. Owner is not entitled to any further compensation from Authority and/or Contractor beyond the valuable consideration paid for this Agreement with respect to restoring the Property to good condition as nearly as practicable to the original condition as existed before the work by the Authority began.

5. Owner's Restrictions after Agreement Execution. At no time after execution of this Agreement shall Owner, nor any individual or entity at the direction of Owner, plan, place, construct or maintain any vegetation, building or structure of any kind within the Perpetual Easement, with the only exceptions being planting grass or paving over the Perpetual Easement after installation of the Water System Improvements.

6. Indemnity. Authority hereby agrees to indemnify and hold Owner harmless from any liability, cost or expense incurred by Owner by reason of injury to persons or damage to property arising out of or in connection with the use of the Perpetual Easement, except for such liability, cost or expense caused by the negligence or willful misconduct of Owner, its agents, invitees, employees or independent contractors and also except in connection with removal of a wooden bridge and concrete crossing structure on the Property.

7. Assignment. This Agreement shall benefit and bind the successors and assigns of Owner and Authority.

8. Irrevocable and Perpetual. Notwithstanding the provisions of any other agreement, document, bylaw or similar writing, it is specifically agreed that the Perpetual Easement created by this Agreement is and shall be irrevocable and infinite.

**IN WITNESS WHEREOF**, the parties have executed this Agreement the day and year first above written.

ATTEST:

**COUNTY OF LEHIGH**

\_\_\_\_\_  
Name (*Printed*):  
Title:

BY: \_\_\_\_\_  
Name (*Printed*):  
Title:

ATTEST:

**LEHIGH COUNTY AUTHORITY**

\_\_\_\_\_  
Bradford E. Landon  
Solicitor

BY: \_\_\_\_\_  
Liesel M. Gross  
Chief Executive Officer

ATTEST:

**CITY OF ALLENTOWN**

\_\_\_\_\_  
Name (*Printed*):  
Title:

BY: \_\_\_\_\_  
Name (*Printed*):  
Title:

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I hereby certify that the precise address of the Grantee Lehigh County Authority is 1053 Spruce Street, P.O. Box 3348, Allentown, PA 18106-0348.

\_\_\_\_\_  
Bradford E. Landon, Solicitor

I hereby certify that the precise address of the Grantee City of Allentown is 435 Hamilton Street, Allentown, PA 18101.

\_\_\_\_\_  
Name (*Printed*):  
Title:

COMMONWEALTH OF PENNSYLVANIA

:

: SS.

COUNTY OF LEHIGH

:

ON THIS, the \_\_\_\_\_ day of \_\_\_\_\_, 2016, before me, a Notary Public in and for said Commonwealth and County, the undersigned Officer, personally appeared \_\_\_\_\_, who acknowledged himself/herself to an Officer of the **COUNTY OF LEHIGH**, a political subdivision in the Commonwealth of Pennsylvania, and that as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the County of Lehigh by himself/herself as such officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

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Notary Public

COMMONWEALTH OF PENNSYLVANIA

:

: SS.

COUNTY OF LEHIGH

:

ON THIS, the \_\_\_\_\_ day of \_\_\_\_\_, 2016, before me, a Notary Public in and for said Commonwealth and County, the undersigned Officer, personally appeared Liesel M. Gross, who acknowledged herself to be the Chief Executive Officer of the **LEHIGH COUNTY AUTHORITY**, a municipal authority, and that as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the Authority by herself as an officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

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Notary Public



COMMONWEALTH OF PENNSYLVANIA

:

: SS.

COUNTY OF LEHIGH

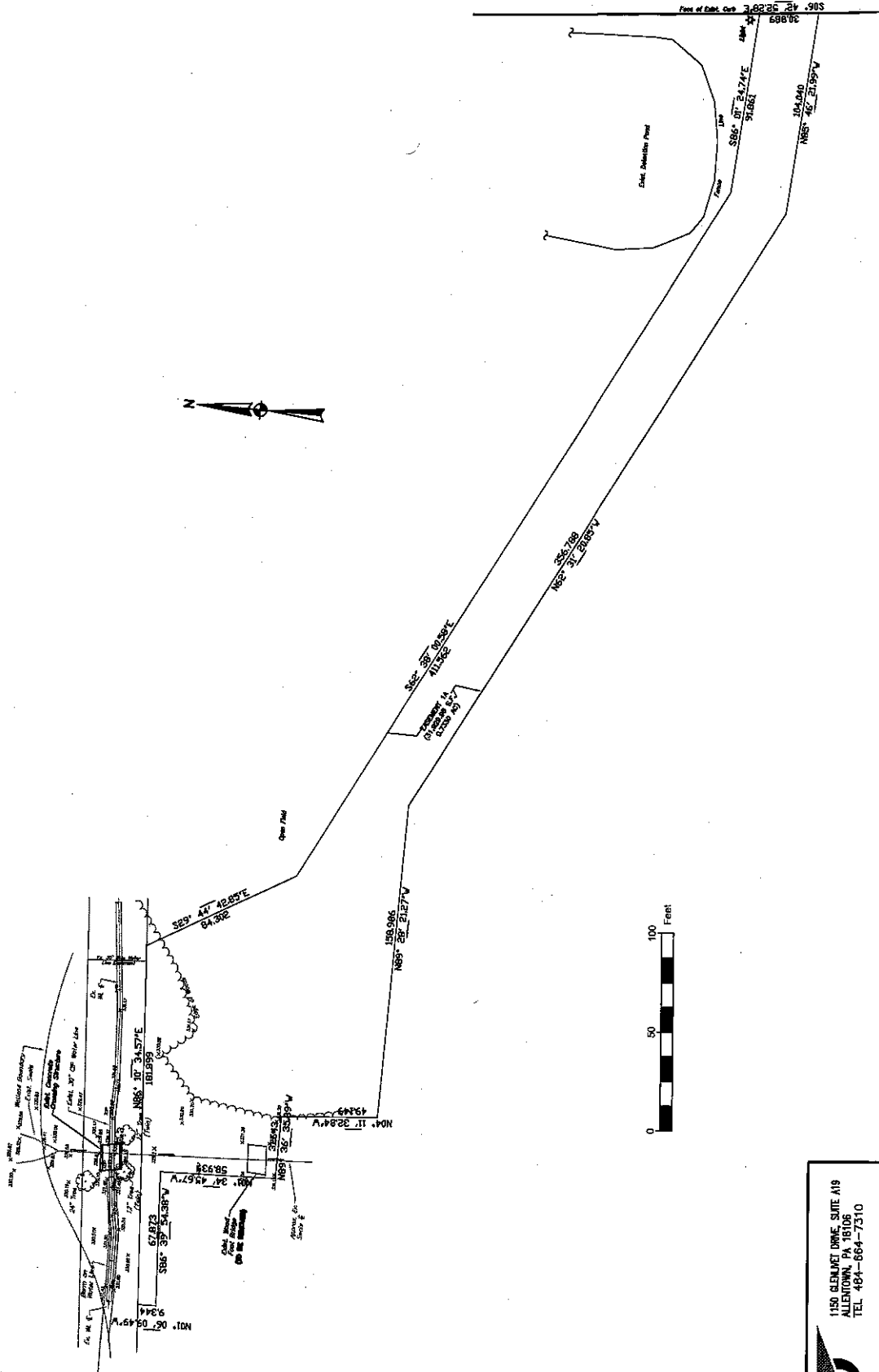
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ON THIS, the \_\_\_\_\_ day of \_\_\_\_\_, 2016, before me, a Notary Public in and for said Commonwealth and County, the undersigned Officer, personally appeared \_\_\_\_\_, who acknowledged himself/herself to an Officer of the **CITY OF ALLENTOWN**, a political subdivision in the Commonwealth of Pennsylvania, and that as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the City of Allentown by himself/herself as such officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

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Notary Public



**ARCO**

1150 BLENDET DRIVE, SUITE A19  
ALLENSTOWN, PA 16806  
TEL 484-864-7310

SCALE: 1" = 50'	DATE 9/30/15	DWG. NO. EXHIBIT 1A
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**COUNTY OF LEHIGH**  
**ACCESS EASEMENT**  
**PINs: 548600785431-1 & 548601161847-1**  
**EXHIBIT B**

The Authority and/or Contractor shall replace any of the mature trees identified in this Exhibit B that are removed or die because of construction by planting for each tree lost a new 1½ to 2 inch caliber tree of a species and at a location determined by Owner's Director of Parks and Recreation.

Mature trees that were identified to be replaced prior to construction:

Description	Location	Number
12" Tree (twin)	Waterline Station 0+58	1
12" Tree (twin)	Waterline Station 0+76	1

Additional trees may be added to the above list after construction is completed.