

RESOLUTION NO. 07-18
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER Jolanne Rau ON THE 22nd
DAY OF JANUARY, 2018.

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A RIGHT OF WAY LICENSE AGREEMENT WITH CENTERVILLE WASHINGTON PARK DISTRICT FOR A NON-EXCLUSIVE LICENSE TO USE A PORTION OF THE PUBLIC RIGHT-OF-WAY LOCATED ALONG CENTERVILLE STATION ROAD (SMITH FARM) FOR THE SOLE PURPOSE OF ERECTING A GROUND IDENTIFICATION SIGN.

WHEREAS, the Centerville Washington Park District ("Park District") owns property located at 2230 Centerville Station Road ("Smith Farm") in the City of Centerville; and

WHEREAS, the Park District desires to obtain a non-exclusive license, as described herein, to erect a ground identification sign and all related activities on the Premises (described below) upon the terms and conditions set forth therein; and

WHEREAS, the City agrees to provide a non-exclusive license to use a portion of the public right-of-way located along Centerville Station Road, in the City of Centerville, Ohio, for the sole purpose of erecting a ground identification sign; and

WHEREAS, Section 1020.03 of the Centerville Municipal Code allows the City Manager to prepare and enforce rules and regulations for access to the public right-of-way.

NOW, THEREFORE, THE MUNICIPALITY OF CENTERVILLE HEREBY RESOLVES:

Section 1. The City of Centerville hereby agrees to grant a non-exclusive license to the Park District as set forth in the Right of Way License Agreement ("Agreement"), over the right-of-way located along Centerville Station Road, in the City of Centerville, Ohio, for the sole purpose of erecting a ground identification sign, said land being more particularly described in Exhibit "A" attached hereto and made a part hereof.

Section 2. The City Manager is hereby authorized to execute the Agreement attached as Exhibit "1" and take all necessary actions to effectuate this grant of license in the right-of-way.

Section 3. This Resolution shall become effective at the earliest date allowed by law.

PASSED this 22nd day of January, 2018.



Mayor of the City of Centerville, Ohio

ATTEST:



Clerk of Council, City of Centerville, Ohio

CERTIFICATE

The undersigned, Clerk of the Council of the City of Centerville, Ohio, hereby certifies that the foregoing is a true and correct copy of Resolution Number 07-18, passed by the Council of the City of Centerville, Ohio, on the 22nd day of January 2018.



Clerk of Council

Approved as to form, consistency
with the Charter and Constitutional Provisions.

Department of Law
Scott A. Liberman
Municipal Attorney

RIGHT OF WAY LICENSE AGREEMENT
FOR
2230 Centerville Station Road ("Smith Farm")

THIS AGREEMENT, made and entered into this ____ day of _____, 2017, by and between the CITY OF CENTERVILLE, Ohio, 100 W. Spring Valley Road, Centerville, Ohio 45458, hereinafter referred to as "LICENSOR" and the CENTERVILLE- WASHINGTON PARK DISTRICT, a political subdivision, located at 221 N. Main Street, Centerville OH 45459, hereinafter referred to a "LICENSEE".

WITNESSETH:

WHEREAS, Licensor desires to grant a non-exclusive license to use a portion of the public right-of-way located along Centerville Station road, in the City of Centerville, Ohio to the Licensee, for the sole purpose of erecting a ground identification sign; and

WHEREAS, Licensee desires to obtain said non-exclusive license, as described herein, to erect a ground identification sign and all related activities on the Premises (described below) upon the terms and conditions set forth herein.

NOW, THEREFORE, for and in consideration of the mutual promises and agreements hereinafter set forth, the parties hereto agree as follows:

1. This Agreement is created in furtherance of the authority set forth in Sections 1020.03, *et.seq.*, of the Centerville Municipal Code regarding Revocable Street Privileges.
2. The Licensor hereby licenses and authorizes the Licensee, its tenants and their respective agents, employees and invitees the right to enter upon and use certain City of Centerville right-of-way at 2230 Centerville Station Road, also known as the Smith Farm ("Licensee's Property"), as more particularly described in Exhibit "A" and as depicted in Exhibit "B" attached hereto and incorporated by reference herein (the "License Area") for the sole purposes of erecting and maintaining a ground identification sign and for no other purposes.

3. Licensee shall solely be responsible for any and all damages, injuries or losses suffered by any person arising as a result of the erection or maintenance of a ground identification sign in the License Area.
4. This Agreement shall be for an indefinite period of time; provided however, that either party hereto shall have the right to revoke and terminate this Agreement and the license granted herein for any reason or no reason by providing thirty (30) days written notice to the other party of its intention to do so. Upon termination, the License Area shall be returned to its original condition, including the removal of any ground identification sign and its appurtenances.
5. Licensor further grants to Licensee the right to maintain the License Area at the sole cost of the Licensee. Upon the expiration of this Agreement, Licensee shall no longer utilize the License Area for a ground identification sign or any other purpose. Licensor reserves the right to inspect said property at any and all reasonable times.
6. Prior to expiration of the Agreement, Licensor agrees not to construct any permanent public improvements, barricades or other obstructions within the License Area nor take any action which will prevent the use of the License Area by Licensee for the purposes detailed in this Agreement, without the written approval of the Licensee, unless said actions are part of a legal permissible eminent domain action, such as, but not limited to, future public roadway construction. Such action may require the relocation of removal of the ground identification sign at the Licensor's sole discretion. The expense related to relocation or removal of the ground identification sign shall be the sole responsibility of the Licensee.
7. LICENSEE ACKNOWLEDGES THAT THE PROPERTY WHICH IS THE SUBJECT OF THE LICENSE GRANTED HEREIN IS HELD BY THE CITY AS PUBLIC RIGHT OF WAY FOR PUBLIC TRAVEL PURPOSES AND AS SUCH MAY BE USED FOR THAT PURPOSE AT ANY TIME. LICENSEE ACKNOWLEDGES AND ASSUMES THE FINANCIAL RISK INCIDENT TO ITS USE FOR A GROUND IDENTIFICATION SIGN IN SAID RIGHT OF WAY UNDER THESE CIRCUMSTANCES AND NOT CONTRARY TO ITS CURRENT USE.
8. This Agreement is a license in real estate and the rights created by it are personal to the entity named herein and its successors and assigns. This Agreement does not pass any interest in the property described above, other than as specifically set forth in this Agreement.

9. Licensee agrees to reimburse the Licensor for its attorney's fees in the amount of \$250 for the drafting of this Agreement and its associated Resolution.

EXECUTED by the parties hereto on the day and year first above written.

LICENSOR:

CITY OF CENTERVILLE, OHIO

By: Wayne S. Davis, City Manager

Approved as to form:

Scott A. Liberman, Municipal Attorney

LICENSEE:

CENTERVILLE-WASHINGTON PARK
DISTRICT

By: _____

Its: _____

STATE OF OHIO)
)
COUNTY OF MONTGOMERY) SS:

The foregoing instrument was acknowledged before me this ____ day of _____, 2017 by Wayne S. Davis, City Manager for the City of Centerville, Ohio.

Notary Public

STATE OF OHIO)
)
COUNTY OF MONTGOMERY) SS:

The foregoing instrument was acknowledged before me this ____ day of _____, 2017 by _____ for the Centerville-Washington Park District.

Notary Public

This Agreement prepared by:

Scott A. Liberman (0058432)
Altick & Corwin Co., L.P.A.
One South Main Street, Suite 1590
Dayton, Ohio 45402

**EXHIBIT A
LEGAL DESCRIPTION**

SITUATE IN SECTION 18, TOWN 3, RANGE 5, M.R.s, CITY OF CENTERVILLE,
MONTGOMERY COUNTY, OHIO AND BEING MORE FULLY DESCRIBED AS FOLLOWS:

Commencing for reference at the northeast corner of Lot 11 of East Park Place as shown on Plat Book 140, Page 38 of the Montgomery County Recorder's Office and being on the west line of a tract of land owned by Washington Township Park District as described in IR Deed 09-064321 and also being on the south right-of-way line of Centerville Station Road;

thence, North 05°-56'-55" East, 8.01 feet, along the west line of said Washington Township Park District tract to a point on the south right-of-way line of Centerville Station Road;

thence, South 80°-37'-00" East, 229.69 feet, along the south right-of-way line of Centerville Station Road to a point and being the principal place of beginning of the license area herein conveyed;

thence, North 02°-08'-20" East, 16.24 feet, to a point;

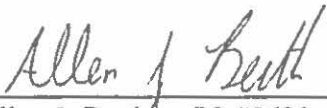
thence, South 87°-51'-40" East, 7.50 feet, to a point;

thence, South 02°-08'-20" West, 17.19 feet, to a point on the south right-of-way line of Centerville Station Road;

thence, North 80°-37'-00" West, 7.56 feet, along the south right-of-way line of Centerville Station Road to the principal place of beginning.

Containing 0.003 acres more or less with all being subject to any legal highway and easements of record. The bearings are based on NAD 83 CORS 2011 Adjustment, Ohio South Zone, ODOT VRS CORS Network.

The above description was prepared by Allen J. Bertke, Ohio Professional Surveyor Number 8629, and dated January 8, 2018. For a pictorial representation, see attached Exhibit "B".

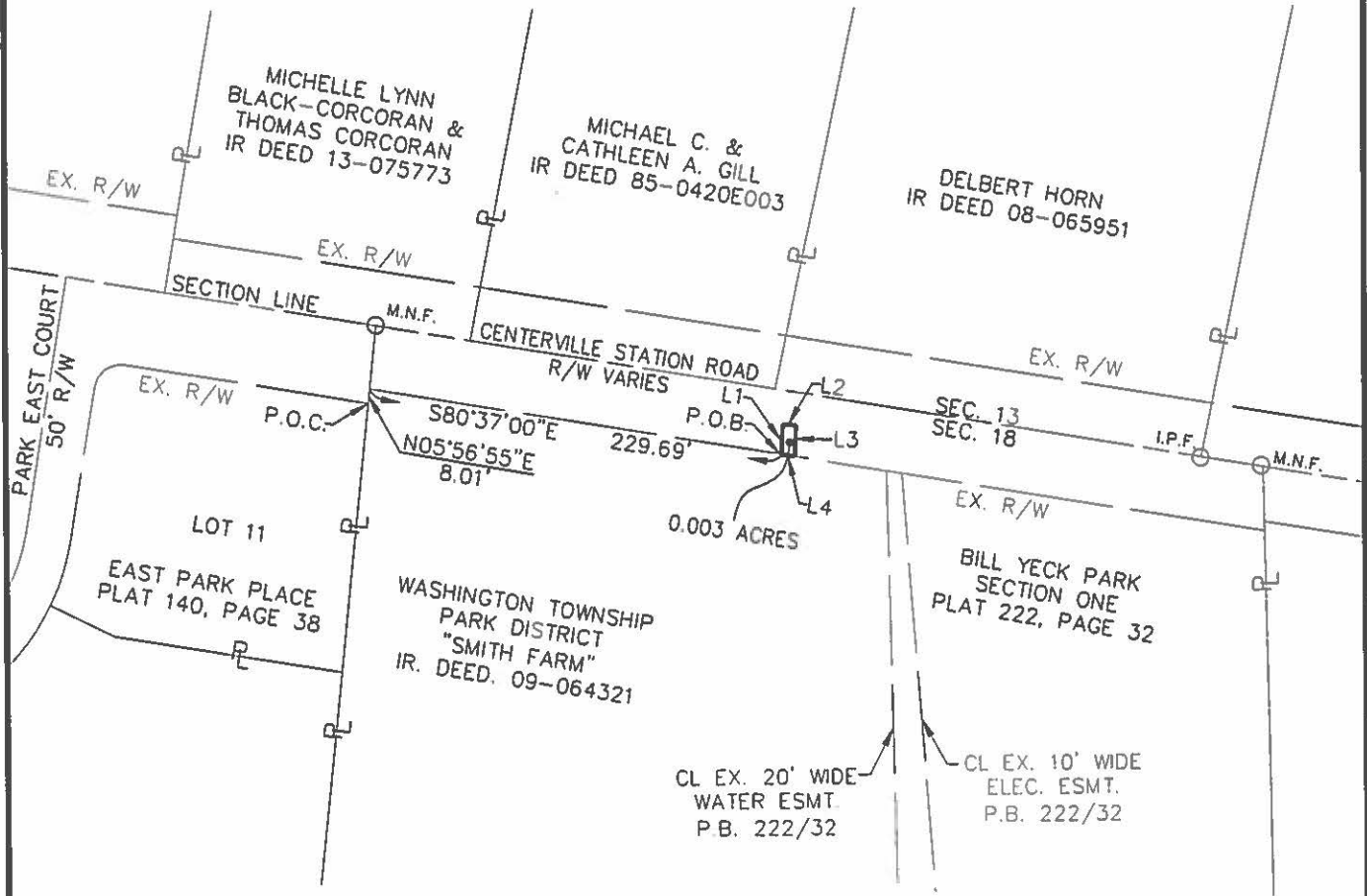

Allen J. Bertke, PS #8629



1-8-18
Date

EXHIBIT B

SITUATED IN SECTION 18, T 3, R 5, M.R.s,
CITY OF CENTERVILLE, MONTGOMERY COUNTY, OHIO



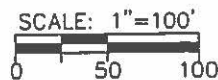
LINE CHART		
LINE	BEARING	DIST.
L1	N02°08'20"E	16.24'
L2	S87°51'40"E	7.50'
L3	S02°08'20"W	17.19'
L4	N87°51'40"W	7.56'

LEGEND

○ M.N.F. MAG NAIL FOUND



THE BEARINGS ARE BASED ON
NAD 83 CORS 2011 ADJUSTMENT,
OHIO SOUTH ZONE,
ODOT VRS CORS NETWORK



ChoiceOne
Engineering

SIDNEY, OHIO 937.497.0200
LOVELAND, OHIO 513.239.8554
PORTLAND, INDIANA 260.766.2500

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